



SOCIETY OF ONTARIO ADJUDICATORS AND REGULATORS

PRESENTS

Balanced Justice

November 3, 2011



This program
can be applied
towards the 9
Substantive Hours of
Continuing Professional
Development (CPD)
required by the Law
Society of Upper
Canada

TORONTO, ONTARIO
900 Bay Street, Macdonald Block, Queen's Park

SOAR'S 23rd ANNUAL CONFERENCE OF ONTARIO BOARDS & AGENCIES (COBA)

2011 CONFERENCE THEME: BALANCED JUSTICE

Can administrative justice be proportionately delivered? Just as there are different degrees of fairness and access, there are different approaches to dispute resolution. Is the public interest better served when tribunals deliver justice in a way that is proportionate to the dispute at hand? Or, is justice compromised when tribunals promote efficiency and manage resources? Be prepared to challenge traditional assumptions in our exciting program on “**Balanced Justice**”.

7:30-8:30 AM

REGISTRATION & CONTINENTAL BREAKFAST

Registration located outside Ontario Room; breakfast in Huron Room.

8:45-9:00 AM

CONFERENCE WELCOME

Conference Co-Chairs – **Jerry DeMarco**, ELTO-Environmental Review Tribunal and **Emanuela Heyninck**, Pay Equity Commission

9:00-9:15 AM

OPENING REMARKS

The Honourable Chris Bentley, Attorney General (Invited)

9:15-10:30 AM

OPENING PLENARY

You're Entitled to Your Day in 'Court', But You're Not Entitled to Somebody Else's!

MODERATOR: **Linda Lamoureux**, Health Professions & Health Services Appeal & Review Boards

SPEAKERS: **Justice Stephen Goudge**, Ontario Court of Appeal; **The Honourable Coulter A. Osborne**, Civil Justice Reform Project; **Dean Lorne Sossin**, Osgoode Hall Law School-York University

What does proportionality mean for the administrative justice community? How does it affect the duties of the various players? What limitations should be placed on a party's right to be heard? The panel will confront these and other questions and discuss the considerations associated with achieving a balance between the time and cost associated with hearing a matter with the remedy, and the importance of the issue to the parties and the public interest.

10:30-10:45 AM

REFRESHMENT BREAK

10:45 AM-12:00 NOON

CONCURRENT SESSIONS

SESSION 1: Hot Tubbing – No Longer Just for Après Ski

MODERATOR: **Bob Butterworth**, ELTO-Assessment Review Board

SPEAKERS: **Freya Kristjanson**, Cavalluzzo Hayes Shilton McIntyre & Cornish LLP; **Gregory Levine**, Department of Geography-University of Western Ontario; **Justice Stephen Goudge**, Ontario Court of Appeal

Hot-Tubbing is a relatively new concept in Canada that allows expert witnesses to testify and be cross-examined as a panel rather than individually. It permits panel discussion and even disagreement amongst panel members. A tradition in some tribunals and public inquiries, this growing approach to expert testimony is finding its way into more tribunals and courts. Enjoy presentations and discussion from a decision maker, a lawyer and a witness (who is also a lawyer) with varying degrees of experience and diverse views on the subject as we “Hot-Tub” together on the pros and cons of this adventure into expert testimony.

SESSION 2: Decision Writing: Making Your Decisions Appeal Proof

MODERATOR: **Mark Nakamura**, Health Professions Appeal and Review Board

SPEAKERS: **Justice John Laskin**, Ontario Court of Appeal; **Justice Anne Molloy**, Ontario Superior Court of Justice

Learn to make your decisions clear, understandable, and appeal proof! Consider the implications of proportional justice on your decision writing. Hear comments, constructive criticisms, and positive suggestions straight from jurists who consider appeals from tribunal decisions. Justices Laskin and Molloy will share their knowledge, experience and expertise to give you the tools you need for decision writing today.

10:45 AM-12:00 NOON

CONCURRENT SESSIONS – CONT'D

SESSION 3: Finding the Right Balance: Making Mediation Efficient and Fair

MODERATOR: **Heather Gibbs**, ELTO-Environmental Review Tribunal

SPEAKERS: **Suzanne Gilbert**, SJTO-Child & Family Services Review Board; **Leslie Macleod**, Leslie H. Macleod & Associates

Tribunals and agencies are increasingly providing mediation in addition to traditional adjudication. The success of mediation depends upon finding the right balance of efficiency and fairness. Important questions need to be considered, such as:

- *What does proportionality mean in the Alternate Dispute Resolution (ADR) context?*
- *What are the real needs of the parties and how can they best be met?*
- *How can mediation be tailored to a tribunal/agency's mandate?*
- *What range of outcomes can be achieved through mediation?*

Leslie Macleod and Suzanne Gilbert will lead a discussion of these and other questions, with firsthand reference to the Child and Family Services Review Board and their mutual experience of introducing settlement facilitation to reduce hearing room time and improve client satisfaction. Participants will have an opportunity to share their experiences and wisdom in this interactive session.

SESSION 4: Accountability in the Public Sector

MODERATOR: **Linda Gehrke**, City of Toronto

SPEAKERS: **Sheldon Levy**, President, Ryerson University; **Lynn Morrison**, Integrity Commissioner for Ontario; **Dean Lorne Sossin**, Osgoode Hall Law School-York University

The Broader Public Sector Accountability Act imposes new accountability and disclosure requirements on publicly funded bodies in Ontario, including hospitals, local health integrated networks, universities and colleges. How will this Act affect these bodies and the public? Will transparency and accountability result?

12:00-1:00 PM

BUFFET LUNCHEON AND VOLUNTEER THANK YOU PRESENTATIONS

Gary Stanley, SOAR President to present thank you gifts at 12:50 pm in Ontario Room.

1:00-2:15 PM

PLENARY SESSION

Administrative Law Blast

MODERATOR: **Grace Knakowski**, Law Society of Upper Canada

SPEAKERS: **Sara Blake**, Ministry of the Attorney General; **Professor Vanessa Gruben**, Faculty of Law-University of Ottawa; **Professor Michael Lynk**, Faculty of Law-University of Western Ontario; **Professor Gus Van Harten**, Osgoode Hall Law School-York University.

A well-informed and experienced panel composed of counsel and professors will address the following current administrative law considerations and developments:

- *Judicial review of reasons for decision*
- *Disclosure to administrative tribunals to determine privilege*
- *Labour law issues and the ongoing application of Dunsmuir*
- *Adjudicative mechanisms in international agreements and their impact on provincial adjudicative bodies.*

2:15-2:30 PM

REFRESHMENT BREAK

SESSION 5: Where Does Information Technology Fit in a World of Proportionality?

MODERATORS: **Elizabeth Nastasi**, SJTO-Human Rights Tribunal of Ontario and **Bob Butterworth**, ELTO-Assessment Review Board

SPEAKERS: **Shane Crymble**, Financial Services Commission of Ontario; **Benjamin Dolin**, Immigration Appeal Division-Immigration and Refugee Board; **Horace McPherson**, Ministry of Community Safety and Correctional Services; **Paul Muldoon**, ELTO-Environmental Review Tribunal; **Jack Walker QC**, Walker Poole Nixon LLP

In an ever shrinking world, with budgets heading in the same direction, the agencies, boards and commissions (ABC) community seeks to provide balanced justice with the help of information technology (IT). This session, with some panelists onsite and others participating offsite, will include an examination of solutions used by some tribunals/commissions and a "distance discussion" of the pros and cons of these creative approaches. Prepare to participate in discussion and sharing of ideas about distance hearings using video and web conferencing and other technology.

SESSION 6: Considerations in Stakeholder Relationships and Consultation

MODERATOR: **Lori Coleman**, Health Boards Secretariat

SPEAKERS: **Katherine Laird**, Human Rights Legal Support Centre; **Laura Pettigrew**, Office of the Ombudsman of Ontario; **Gary Yee**, SJTO-Social Benefits Tribunal

Decision making bodies are regularly challenged to establish and maintain effective stakeholder relationships. Given the requirement under the Adjudicative Tribunals Accountability, Governance and Appointments Act (ATAGAA) to develop a consultation policy, how do agencies ensure that communications with stakeholders are meaningful and genuine without affecting the independent decision making authority of the organization? When is it appropriate to consult with stakeholders, and how can your organization effectively manage the expectations of those offering competing viewpoints? Join this experienced panel as they present and discuss varying perspectives so that your organization can be better equipped to handle the good, the bad, and the ugly in stakeholder relationships and consultation!

SESSION 7: Statutory Interpretation: Essential(s) for Adjudicators

MODERATOR: **Caroline King**, SJTO-Landlord and Tenant Board

SPEAKER: **Professor Randal Graham**, Faculty of Law-University of Western Ontario

Build on the basics from last year's popular workshop Statutory Interpretation 101 as award-winning Professor Randal Graham unlocks the mysteries of how to read, interpret, and apply statutes expertly. This workshop on advanced statutory interpretation is designed to provide practical tools for professionals whose job it is to parse evidence and filter it via the statutes on a daily basis. Join Randal Graham, whose expertise is widely sought by the judiciary and students of law alike, as he shares his insight, knowledge, and experience about statutory interpretation as it applies to adjudicators in the administrative justice community. Attendance at COBA 2010 - Statutory Interpretation 101 is not a prerequisite to attend this session. Do not miss this opportunity to hone your skills and share the expertise of one of the legal community's best minds.

IMPORTANT NOTES:

1. Written materials are not provided for conference presentations. Any papers or notes provided by speakers will be available on the SOAR website after the conference at 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.

SESSION 8: The Active Adjudicator: Counsel and Adjudicator Perspectives

MODERATOR: **Catherine Bickley**, Pay Equity Hearings Tribunal and SJTO-Human Rights Tribunal of Ontario

SPEAKERS: **Joseph Colangelo**, Sole Practice; **Mark Hart**, SJTO-Human Rights Tribunal of Ontario

Does a proportional approach to dispute resolution benefit from adjudicators who "descend into the arena" rather than passively receiving evidence from the parties? Do concerns about neutrality inevitably result? Mark Hart, will describe how he uses non-traditional adjudicative procedures to focus and drastically shorten hearings, consistent with the HRTO's legislative mandate to facilitate "fair, just and expeditious" resolution of human rights disputes. Joseph Colangelo will offer an inverse perspective providing commentary on the party experience with diverse adjudicative styles and suggesting advocacy-based techniques to effectively engage parties in outcomes beneficial to both clients and tribunals.

3:45-4:30 PM CLOSING PLENARY Time to be Proactive – Access by Design; Privacy by Design

MODERATOR: **Dr. Lilian Ma**, SJTO-Landlord and Tenant Board

SPEAKERS: **Dr. Ann Cavoukian**, Commissioner, Information and Privacy Commission of Ontario; **Brian Beamish**, Assistant Commissioner-Access, Information and Privacy Commission of Ontario

The Office of the Information and Privacy Commissioner of Ontario has taken a leading role in promoting a proactive approach to privacy and access to information. Commissioner Ann Cavoukian will appear via video recording and will outline the benefits of her Privacy by Design (PbD) campaign, and provide examples of PbD in action. Assistant Commissioner Brian Beamish (in person) will provide an overview of recent developments in Open Government and Open Data and discuss Access by Design (AbD), the IPC's contribution to these movements. AbD encourages a proactive approach to releasing government-held information, in order to foster a culture of accountability.

4:30 PM - CLOSING REMARKS Conference Co-Chairs – **Jerry DeMarco** and **Emanuela Heyninck**

4:40 PM - SOAR ANNUAL GENERAL MEETING / ELECTIONS **Gary Stanley**, SOAR President

5:00 PM - SOAR MEDAL DINNER NETWORKING RECEPTION Wellesley Room, Sutton Place Hotel

6:00 PM - SOAR MEDAL DINNER
Stop 33 - Sutton Place Hotel. Join SOAR and the administrative justice community in honouring the 2011 SOAR Medal Winners – **James Girling**, **Justice David Stratas** and **Toby Vigod**. Enjoy an excellent opportunity to pay tribute to these incredible individuals, as well as to mix and mingle with colleagues in a lovely setting with superb cuisine!

THANK YOU TO THE 2011 CONFERENCE PLANNING COMMITTEE VOLUNTEERS!

JERRY DEMARCO, ELTO-Environmental Review Tribunal (Co-Chair)
EMANUELA HEYNINCK, Pay Equity Commission (Co-Chair)
CATHERINE BICKLEY, Pay Equity Hearings Tribunal and SJTO-Human Rights Tribunal of Ontario
BOB BUTTERWORTH, ELTO-Assessment Review Board
LORI COLEMAN, Health Boards Secretariat
LINDA GEHRKE, City of Toronto
HEATHER GIBBS, ELTO-Environmental Review Tribunal
CAROLINE KING, SJTO-Landlord and Tenant Board
GRACE KNAKOWSKI, Law Society of Upper Canada
LINDA LAMOUREUX, Health Professions & Health Services Appeal & Review Boards
DR. LILIAN MA, SJTO-Landlord and Tenant Board
NANCY MAKEPEACE, Ontario Securities Commission
MARK NAKAMURA, Health Professions Appeal and Review Board
ELIZABETH NASTASI, SJTO-Human Rights Tribunal of Ontario
GARY STANLEY, Ontario Highway Transport Board
VOY STELMASZYNSKI, Ontario Labour Relations Board
JOSÉE TURCOTTE, Ontario Securities Commission

2011 SOAR CONFERENCE PROGRAM-AT-A-GLANCE

BALANCED JUSTICE

Thursday, November 3, 2011

Ontario Room, Macdonald Block, Queens Park, 900 Bay Street (at Wellesley)
Toronto, Ontario, Canada, Tel. 416.327.9532 (Directions/General Info)

TIME	EVENT	SPEAKERS	ROOM LOCATION
7:30-8:30 am	REGISTRATION & CONTINENTAL BREAKFAST		
8:45-9:00 am	CONFERENCE WELCOME	CONFERENCE CO-CHAIRS: Jerry DeMarco , ELTO-Environmental Review Tribunal Emanuela Heyninck , Pay Equity Commission	
9:00-9:15 am	OPENING REMARKS	The Honourable Chris Bentley , Attorney General (<i>Invited</i>)	
9:15-10:30 am	OPENING PLENARY: You're Entitled to Your Day in 'Court', but You're Not Entitled to Somebody Else's!	MODERATOR: Linda Lamoureux, Health Professions & Health Services Appeal & Review Boards Justice Stephen Goudge , Ontario Court of Appeal The Honourable Coulter A. Osborne , Civil Justice Reform Project Dean Lorne Sossin , Osgoode Hall Law School-York University	
10:30-10:45 am	REFRESHMENT BREAK		
10:45 am-12:00 noon	CONCURRENT SESSIONS: 1. Hot Tubbing – No Longer Just for Après Ski 2. Decision Writing: Making Your Decisions Appeal Proof 3. Finding the Right Balance: Making Mediation Efficient and Fair 4. Accountability in the Public Sector	MODERATOR: Bob Butterworth, ELTO-Assessment Review Board Freya Kristjanson , Cavalluzzo Hayes Shilton McIntyre & Cornish LLP Gregory Levine , Department of Geography-University of Western Ontario Justice Stephen Goudge , Ontario Court of Appeal MODERATOR: Mark Nakamura, Health Professions Appeal and Review Board Justice John Laskin , Ontario Court of Appeal Justice Anne Molloy , Ontario Superior Court of Justice MODERATOR: Heather Gibbs, ELTO-Environmental Review Tribunal Suzanne Gilbert , SJTO-Child & Family Services Review Board Leslie Macleod , Leslie H. Macleod & Associates MODERATOR: Linda Gehrke, City of Toronto Sheldon Levy , President, Ryerson University Lynn Morrison , Integrity Commissioner for Ontario Dean Lorne Sossin , Osgoode Hall Law School-York University	
12:00-1:00 pm	BUFFET LUNCHEON / VOLUNTEER THANK YOU PRESENTATIONS	Gary Stanley , SOAR President	
1:00-2:15 pm	PLENARY SESSION: Administrative Law Blast	MODERATOR: Grace Knakowski, Law Society of Upper Canada Sara Blake , Ministry of the Attorney General Professor Vanessa Gruben , Faculty of Law-University of Ottawa Professor Michael Lynk , Faculty of Law-University of Western Ontario Professor Gus Van Harten , Osgoode Hall Law School-York University	
2:15-2:30 pm	REFRESHMENT BREAK		
2:30-3:45 pm	CONCURRENT SESSIONS: 5. Where Does Information Technology Fit in a World of Proportionality? 6. Considerations in Stakeholder Relationships and Consultation 7. Statutory Interpretation: Essential(s) for Adjudicators 8. The Active Adjudicator: Counsel and Adjudicator Perspectives	MODERATORS: Elizabeth Nastasi, SJTO-Human Rights Tribunal of Ontario and Bob Butterworth, ELTO-Assessment Review Board Shane Crymble , Financial Services Commission of Ontario Benjamin Dolin , Immigration Appeal Division-Immigration and Refugee Board Horace McPherson , Ministry of Community Safety and Correctional Services Paul Muldoon , ELTO-Environmental Review Tribunal Jack Walker QC , Walker Poole Nixon LLP. MODERATOR: Lori Coleman, Health Boards Secretariat Katherine Laird , Human Rights Legal Support Centre Laura Pettigrew , Office of the Ombudsman of Ontario Gary Yee , SJTO-Social Benefits Tribunal MODERATOR: Caroline King, SJTO-Landlord and Tenant Board Professor Randal Graham , Faculty of Law-University of Western Ontario MODERATOR: Catherine Bickley, Pay Equity Hearings Tribunal and SJTO-Human Rights Tribunal of Ontario Joseph Colangelo , Sole Practice Mark Hart , SJTO-Human Rights Tribunal of Ontario	
3:45-4:30 pm	CLOSING PLENARY: Time to be Proactive -- Access by Design; Privacy by Design	MODERATOR: Dr. Lillian Ma, SJTO-Landlord and Tenant Board Dr. Ann Cavoukian , Information and Privacy Commission of Ontario Brian Beamish , Information and Privacy Commission of Ontario	
4:30 pm	CLOSING REMARKS	CONFERENCE CO-CHAIRS: Jerry DeMarco and Emanuela Heyninck	
4:40 pm	SOAR ANNUAL GENERAL MEETING AND ELECTIONS	Gary Stanley , SOAR President	
5:00 pm	SOAR MEDAL DINNER NETWORKING RECEPTION	Wellesley Room, Sutton Place Hotel	
6:00 pm	SOAR MEDAL DINNER	Stop 33, Sutton Place Hotel	

HOTEL ACCOMMODATION

A block of guest rooms with a special group rate of \$180 per night + taxes, has been set aside for 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, however, 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 14, 2011. Reservations made after this date will be provided on a space and rate availability basis only.