



CIVIL LITIGATION UPDATED 2016
“THE TREMBELLO* CONFERENCE”
(MONTEBELLO @ MONT TREMBLANT)

November 18 – 19, 2016
Fairmont Mont Tremblant, QC

(“Trembello” is believed to have been coined by Shawn O’Connor of Kelly Santini LLP)*

FRIDAY, NOVEMBER 18, 2016

MODERATOR: WILLIAM J. SIMPSON, Q.C., LSM

9:00 – 9:15

Bienvenue! / Welcome!

Lynne Watt, President, County of Carleton Law Association

9:15 – 9:30

Six weeks to go before the axe falls: Automatic dismissal under Rule 48.14

Jordan Nichols, LawPRO

9:30 – 9:45

A judicial review review: The Supreme Court weighs in (again)

Anne Tardif, Caza Saikaley LLP

9:45 – 10:10

Controversy over costs: Proportionality, predictability and reasonable expectations

Justice Robert Smith, Superior Court of Justice

Mitch Kitagawa, Kelly Santini LLP

Laurie Tucker, Burn Tucker Lachaine LLP

10:10 - 10:25

Third party litigation funding: A pathway to access to justice or a wolf in sheep’s clothing?

Craig O’Brien, Nelligan O’Brien Payne LLP

10:25 – 10:40

Openings and Closings: The Outer Limits

Justice Colin McKinnon, Superior Court of Justice

- 10:40 – 11:00** **EXHIBITOR SHOWCASE BREAK**
- MODERATOR:** **PATRICK THOMPSON, *McMillan LLP***
- 11:00 – 11:20** **When on-line goes off-side: The latest on internet defamation**
Anastasia Semenova, *Gowling WLG*
- 11:20 – 11:35** **Risky business? Directors' personal liability**
Matthew Halpin, *Norton Rose LLP*
- 11:35 – 12:00** **Construction law: What's new?**
Nadia Authier, *Rasmussen Starr Ruddy LLP*
Owen Bourns, *Perley-Robertson, Hill & McDougall LLP*
- 12:00-12:15** **Regional Contact – a word (or two) from the RSJ**
Regional Senior Justice James McNamara, *Superior Court of Justice*
- 12:15 – 1:00** **SIX UNDER SIX (ON SIX FOR SIX)**
Six [lawyers at the bar for] under six [years] on six [topics of interest] for six [minutes]
1. **Civil Contempt**
Jon Doody, *Bayne Seller Boxall*
 2. **Public Disclosure of Private Facts**
Siobhan O'Brien, *Hicks Morley Hamilton Stewart Storie LLP*
 3. **Getting off the record: When, why and how?**
Laura Hunt, *Augustine Bater Binks LLP*
 4. **Période d'essai et le congédiement d'employés en probation**
Stefan Kimpton, *Fasken Martineau DuMoulin LLP*
 5. **Limited Scope Retainers**
Warren Whiteknight, *Bergeron Clifford LLP*
 6. **Municipal Liability and Causation**
Angela Beck, *Burn Tucker Lachaine LLP*
- 1:00 – 2:10** **CONFERENCE LUNCH – Soutana Rooms 1, 2 & 3**
- Advocacy Club Lunch: Developing Today's Advocates
For Advocacy Club Members Only**
Charivari Room (C1 Level)
- MODERATOR:** **CALE HARRISON, *Tierney Stauffer LLP***
- 2:10 – 2:30** **Stranger danger at the SCC: *Chevron Corp. v. Yaiguaje:***
Enforcement of foreign judgments
Chris Hutchison, *Conway Baxter Wilson LLP*

- 2:30 – 2:45** **Approval-seeking behaviour: What a judge needs to approve settlements for parties under a disability**
Justice Timothy Ray, *Superior Court of Justice*
- 2:45 – 3:30** **PANEL: Personal Injury Update – Collateral benefits, PJI and SABS, oh my!**
MODERATOR: Joseph Obagi, *Connolly Obagi LLP*
- SPEAKERS:** Justice Charles Hackland, *Superior Court of Justice*
Jennifer Arrigo, *Intact Insurance*
Paul Auerbach, *McNally Gervan LLP*
- 3:30 – 3:50** **EXHIBITOR SHOWCASE BREAK**
- MODERATOR:** **JESSICA FULLERTON, *Nelligan O'Brien Payne LLP***
- 3:50 – 4:30** **PANEL: Summary disposition of actions: Almost three years post-*Hryniak*, is the litigation landscape any different?**
MODERATOR: Jessica Fullerton, *Nelligan O'Brien Payne LLP*
- SPEAKERS:** Justice David Brown, *Court of Appeal for Ontario*
Justice Calum MacLeod, *Superior Court of Justice*
Mona Datt, *Loom Analytics*
- 4:30 – 5:30** **PANEL: Articling, sandwich boards and referral fees: Professionalism in 2016**
MODERATOR: Heather Williams, *Cavanagh Williams LLP*
- SPEAKERS:** Paul Schabas, *Treasurer, Law Society of Upper Canada*
Bradley Berg, *President, The Advocates' Society*
David Sterns, *President, Ontario Bar Association*
Derek Nicholson, *Beament Hebert Nicholson LLP*
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- 5:30 - 7:15** **Pre-dinner cocktails – Soutana Room 1 & 2 (Lower Level)**
Sponsored by GML Actuarial Services
- 7:15 - 9:30** **Dinner & Roast of David Scott, QC**
- 9:30 - 1:00** **Live entertainment – Mix, Mingle Dance in Soutana Room 1 & 2 (Lower Level)**
Sponsored by MDD Forensic Accountants
- 9:30 – 1:00** **The Advocates' Society Hospitality Suite – Soutana Room 3 (Lower Level)**
- 11:00 – 1:00** **Late Night in the Gold Room, 7th Floor**
Sponsored by Collins Barrow LLP
- 1:00** **After-party at Le P'tit Caribou (in Tremblant village)**
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SATURDAY, NOVEMBER 19, 2016**MODERATOR:** CHRISTINE POWELL, *Soloway, Wright LLP***9:00 – 9:20** **Quick Deaths: The anti-SLAPP legislation & Rule 2.1**
Jonathan Collings, *Low Murchison Radnoff LLP***9:20 – 9:35** **Legal Research – Sites Unseen**
Jennifer Walker, *Head Librarian, County of Carleton Law Association***9:35 - 9:50** **Well, well....well? Litigators and mental health**
Dr. Raj Bhatla, *The Royal (The Royal Ottawa Health Care Group)***9:50 – 10:10** **The Ethical Expert: Is a system re-boot the only solution?**
Adam Dodek, *University of Ottawa, Faculty of Common Law***10:10 – 11:10** **PANEL: Employment Law Update**
MODERATOR: Mark Josselyn, *Gowling WLG***SPEAKERS:** Justice Charles Hackland, *Superior Court of Justice*
Justice Julie Thorburn, *Superior Court of Justice*
Catherine Coulter, *Dentons LLP*
Sean McGee, *Nelligan O'Brien Payne LLP***11:10 – 11:30** **EXHIBITOR SHOWCASE BREAK****MODERATOR:** JEFF SAIKALEY, *Caza Saikaley LLP***11:30 – 11:50** **Masterpiece Theatre - 2016**
Master Nathalie Champagne, *Superior Court of Justice*
Master Marie Fortier, *Superior Court of Justice***11:50 – 12:10** **Limitation period update: Recent developments from the man who (actually!) wrote the book**
Justice Graeme Mew, *Superior Court of Justice***12:10 – 1:10** **JUDGES' PANEL: Ethical advocacy: Justice exposed**
MODERATOR: Hon. Douglas Cunningham, Q.C.**SPEAKERS:** Justice Marc Labrosse, *Superior Court of Justice*
Justice Pierre Roger, *Superior Court of Justice*
Justice Giovanna Toscano Roccamo, *Superior Court of Justice*
Justice Julie Thorburn, *Superior Court of Justice*
Justice Darla Wilson, *Superior Court of Justice*

1:10 – 2:00

LUNCH

MODERATORS:

ROB DE TONI, *Merovitz Potechin LLP*
SUSANNE M. SVIERGULA, *Cavanagh Williams LLP*

2:00 – 4:00

PANEL: Tool Time – What’s in Your Bag?

SPEAKERS:

Justice Robert Beaudoin, *Superior Court of Justice*
 Justice Darla Wilson, *Superior Court of Justice*
 Andrew Lenz, *Perley-Robertson, Hill & McDougall LLP*
 Lynn Marchildon, *Department of Justice, Civil Litigation Section*
 Kevin Nearing, *Borden Ladner Gervais LLP*

How to:

- *De bene esse* evidence & Rule 36.04
- Agreed statements of facts & requests to admit
- Joint book of documents – what do they really mean?
- *Evidence Act* notices
- Jury selection – jury list? The practical how to, what actually happens step by step
- Examination in chief & introducing an exhibit
- Hearsay – anticipating it and knowing what problems it creates
- Objections (and the basis for them)
- Impeachment & how to do it (both kinds)
- Expert’s reports – in or out or both?
- Surveillance evidence
- Read-ins
- Jury questions