

THE 7TH ANNUAL GUIDE TO NEGOTIATING, CHALLENGING AND DRAFTING DOMESTIC CONTRACTS



Senior practitioners will provide in-depth and practical guidance on key issues, including:

- Validity/enforcement of mediation and arbitration agreements
- The purpose of time-limited parenting coordination agreements
- Threshold for the removal of a parenting coordinator
- Life insurance provisions and separation agreements: the use of insurance trusts
- Agreements to transfer property: can the bankruptcy trustee knock them down?
- Do's and don'ts of drafting income tax clauses in separation agreements
- Drafting Bill 133 compliant agreements
- Avoiding pitfalls in complex marriage contracts

This practical short course
is an essential update for
family law practitioners

Plus! Join us for an optional workshop: **Contract Drafting for Family Law Agreements** to make sure you get the most out of this program!

REGISTER NOW AT
OSGOODEPD.CA
/CONTRACTS



Chair

Robert M. Halpern
Torkin Manes LLP

Date and Time

November 7, 2016
9:00 a.m. - 4:30 p.m. EST
In Person or Webcast

Optional Workshop

November 8, 2016
9:00 a.m. - 12:00 p.m.
In Person

Can't make the live program?

The Online Replay is scheduled
for December 13, 2016

THE 7TH ANNUAL GUIDE TO NEGOTIATING, CHALLENGING AND DRAFTING DOMESTIC CONTRACTS

Mastery of domestic contracts is essential to a family lawyer's practice. The vast majority of family law matters are resolved by contracts - and most claims against family lawyers relate to advising on or preparing them. Providing competent advice begins with ensuring that:

- You are up-to-date on the current law and best practices regarding separation agreements, marriage contracts, family arbitration agreements, parenting agreements and more
- You are aware of the range of strategic and tactical options and can advise your clients on the pros and cons of each
- You manage your clients' expectations
- You meet a myriad of legal requirements
- The agreements you prepare achieve your clients' purposes and are enforceable

This *OsgoodePD* program, designed by family law experts, was developed to strengthen these competencies by focusing on some of the more challenging aspects of domestic contracts. You'll hear from senior practitioners who will give you practical advice on the latest legal developments and their impact, and provide important practice tips on how to avoid costly pitfalls. You will be better equipped to make sound, reliable judgments, and to avoid the potential liability traps in this critical part of your practice.

For best practices in drafting family law agreements and how to rectify deficiencies, join us for an optional workshop: **Contract Drafting for Family Law Agreements**, on November 8, 2016 from 9:00 a.m. to 12:00 p.m. This interactive session will ensure you get the most out of this program.

WHO SHOULD ATTEND

- Family Law Lawyers
- Wills & Estates Lawyers
- General Practitioners
- Paralegals

Chair

Robert M. Halpern
Torkin Manes LLP

Faculty

Risa Awerbuck
Torkin Manes LLP

Aaron Franks
Epstein Cole LLP

Andrew J. Freedman
CPA, CA•IFA, CBV, ASA
Managing Director, Dispute Consulting, Duff & Phelps Canada Limited

Paul E. McInnis
McInnis & Nicoll

Elizabeth A. Hyde, B.Ed.
LL.B., LL.M., Acc. FM
Associate, Riverdale Mediation

Robert A. Klotz
Klotz Associates

Judith M. Nicoll
McInnis & Nicoll

Gerald P. Sadvari
Grant & Sadvari

Bryan R.G. Smith
Lerners LLP

Lorne H. Wolfson
Torkin Manes LLP



AGENDA

8:30

Registration and Continental Breakfast

9:00

Welcome from the Chairs

9:05

Mediation and Arbitration Agreements

LORNE H. WOLFSON, *Torkin Manes LLP*

- Understanding the legal requirements for med/arb agreements
- Open vs. closed mediation
- The annotated med/arb agreement
- Dealing with a client who wants to sign an unfavourable agreement
- Validity and enforcement of med/arb agreements
- Papering settlements

9:50

Key Provisions in Parenting Agreements and Parenting Coordination Agreements

JUDITH M. NICOLL, *McInnis & Nicoll*

ELIZABETH A. HYDE, B.Ed., LL.B., LL.M., Acc. FM

Associate Riverdale Mediation

- Special issues in drafting agreements related to high conflict cases
- Parenting coordination agreements and awards made pursuant to them
- How do you get from a parenting plan to a parenting coordination agreement (and should you?)
- Threshold for the removal of the parenting coordinator
- What is the purpose of time limited PC Agreements and how does that mesh with the separation agreement?
- Best practices for parenting coordinators
- What issues will not go to the parenting coordinator?

10:45

Refreshment Break

11:00

Life Insurance Provisions and Separation Agreements

PAUL E. MCINNIS, *McInnis & Nicoll*

- Structuring the beneficiary designation
- The use of insurance trusts
- Revocable and irrevocable designations
- The different types of policies available and when to use them
- Reductions in insurance coverage and the implications
- Implications of the *Re Dagg Estate* decision
- Revisiting provisions of the LSUC separation agreement

11:45

Bankruptcy-Proofing the Agreement: The Effect of Bankruptcy on Separation Agreements

ROBERT A. KLOTZ, *Klotz Associates*

- Ambiguously worded payment obligation: is it support?
- Other payment obligations that might survive bankruptcy
- Agreements to transfer property: can the bankruptcy trustee knock them down?
- Conditionality and fundamental breach: are mutual releases still effective despite the bankruptcy?

- Ethical problems: agreements that prejudice a spouse's creditors
 - *Thibodeau* decision: does it apply to separation agreements?
- Pending legislative changes

12:30

Luncheon

1:15

Tax Principles of Separation Agreements

ANDREW J. FREEDMAN, CPA, CA-IFA, CBV, ASA, *Managing Director, Dispute Consulting, Duff & Phelps Canada Limited*

- Tax treatment of retroactive spousal support
- The deductibility of legal fees
- Tax implications of spousal support and arbitration awards
- Taxation of cost awards
- Drafting income tax clauses in separation agreements

2:00

Pension Division Clauses at Marriage Breakdown

BRYAN R.G. SMITH, *Lerners LLP*

- Drafting Bill 133 compliant agreements
- Are other at source pension agreements possible?
- Court ordered pension division under Section 10.1, *Family Law Act*
- Practical considerations and potential challenges

2:45

Refreshment Break

3:00

Avoiding the Pitfalls in Complex Marriage Contracts

GERALD P. SADVARI, *Grant & Sadvari*

- Terms - discussing various options with your client
- Simplified drafting techniques
- Sunset considerations: how and when to use them
- Spousal support: advising clients of the court's residual discretion under the *Divorce Act* or *Miglin* formula
- Ensuring a complete list of assets and liabilities with supporting documentation; preparation of a disclosure brief
- Practice management timetable: what should it look like?
- Ethical considerations
 - what do you do when you do not trust your clients' disclosure?
 - concerns about the competence of lawyer on the other side
- Acting for both parties when they agree on settlement terms

3:45

Wills & Estates Issues in Domestic Contracts

RISA AWERBUCK, *Torkin Manes LLP*

- The effect of cohabitation, marriage, separation and divorce on existing estate planning documents
- Rights on death with and without a will
- Estate planning considerations in marriage contracts and cohabitation agreements
- Estate planning considerations in separation agreements
- Best practice tip - you can't do it all

4:30

Program Concludes

OPTIONAL WORKSHOP: NOVEMBER 8, 2016

9:00-12:00

Contract Drafting for Family Law Agreements

AARON FRANKS, *Epstein Cole LLP*

ROBERT M. HALPERN, *Torkin Manes LLP*

Webcast attendance is not available for the workshop.

In this intensive workshop, you will have the opportunity to have your drafting critiqued by senior family law practitioners. Prior to the start of the program, you will be provided with a fact scenario and asked to draft and submit various key clauses.

A workshop leader will review and critique your clauses. Working in a small group, you will work through examples (both good and bad) and discuss such areas as:

- Contract drafting strategies and best practices
- How to organize and structure your agreement
- How to identify key areas your agreement must address
- How to anticipate issues that may arise in drafting
- Best practices in drafting family law clauses/agreements and how to rectify deficiencies as a matter of risk management
- How to modify standardized agreements to different types of situations

You will leave with practical tips and strategies which you can apply to the next agreement you negotiate and draft.



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSUC.



Eligible CPD/MCLE Hours

CONFERENCE:

LSUC (ON): 6.75 CPD hours (1.0 professionalism & 5.75 substantive)

WORKSHOP:

LSUC (ON): 3.0 CPD hours (1.5 professionalism & 1.5 substantive)

OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian jurisdictions. To inquire about credit eligibility, please contact cpd@osgoode.yorku.ca

REGISTRATION

Please complete all registrant information.

Negotiating, Challenging and Drafting Domestic Contracts

I will attend:

- ☐ Course only ☐ Course plus Workshop ☐ Workshop only
☐ On site ☐ Via webcast (single viewer - course only)
☐ Online Replay - December 13, 2016 (course only)

Name: _____

Title: _____

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Fee Per Delegate

Course only: \$525 plus HST

Course plus Workshop: \$750 plus HST

Workshop only: \$325 plus HST

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FLA members receive a 10% discount using code 00-4FLA

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

Dates & Times

November 7, 2016

9:00 a.m. - 4:30 p.m. EST

Optional Workshop:

November 8, 2016

9:00 a.m. - 12:00 p.m.

Please arrive a half hour early for sign-in and material pick-up.

Dress is business casual.

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 14 days prior to the program date. No other refund is available.

Location

Osgoode Professional Development
Downtown Toronto Conference Centre
1 Dundas St. W., 26th Floor
Toronto, ON M5G 1Z3

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.



4 Convenient Ways to Register

1. **ONLINE** at www.osgoodepd.ca/contracts
2. **MAIL** your registration form to:
Osgoode Professional Development
Downtown Toronto Conference Centre
1 Dundas St. W., 26th Floor
Toronto, ON M5G 1Z3
3. **FAX** your registration to 416.597.9736
4. **CALL US** at 416.597.9724