



FACULTY OF LAW

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Queen's University  
Kingston, Ontario, Canada K7L 3N6

**Erik S. Knutsen**

Professor and Associate Dean (Academic)

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**Erik S. Knutsen**

Professor and Associate Dean (Academic)

### Scholarly Interests

Insurance, Torts, Civil Litigation, Medical Law, Accident Law

### Academic Employment

#### **Queen's University Faculty of Law – Professor and Associate Dean (Academic)**

Kingston, ON, 2006 - present

Associate Dean (Academic): 2018-present

Academic Advisor of Introduction to Legal Skills Program (2018 - present)

Full Professor with Tenure: 2017-present

Associate Professor with Tenure: 2011-2017

Assistant Professor: 2006-2011

• *current teaching:*

- Insurance, Torts, Civil Procedure
- Torts module for undergraduate Law 201 (online and blended) (2014-present)

• *teaching awards:*

- Queen's University-wide Chancellor Charles A. Baillie Teaching award (2018)
- Faculty of Law Teaching Award in 2014, 2010 and 2007
- nominated by law faculty for university-wide teaching award in 2014

• *prior teaching:*

- Law, Risk and Healthcare in MSc in Healthcare Quality program in Faculty of Health Sciences (2013-15)
- Complex Civil Liability seminar (2011)
- Professional Competencies: Law in Medical School First Year M.D. Program (2011)

#### **Florida State University College of Law – Visiting Assistant Professor**

Tallahassee, FL, 2005 - 2006

- taught Torts, Insurance survey course, Insurance seminar, Contracts I and II
- one of three nominated for university-wide teaching award based on student evaluations (in university of more than 40,000 students)

#### **Florida State University College of Law – Visiting Assistant in Law**

Tallahassee, FL, 2000 - 2001

- taught Entertainment Law, first-year legal writing (advocacy and research)
- awarded Excellence in Teaching and Leadership Award

#### **Lakehead University – Sessional Lecturer**

Thunder Bay, ON (part-time), spring semester 1999

- taught upper year undergraduate Canadian law and research course

## Legal Practice Employment

**Paul, Weiss, Rifkind, Wharton & Garrison, LLP** – Associate, Litigation Department  
New York, NY, 2004 - 2005

- assisted with litigating multi-million dollar 9/11, World Trade Center disaster-related insurance cases across the United States;
- selected to assist in planning New York State Bar Association Presidential Summit

**Fasken Martineau DuMoulin LLP** – Associate, Research/Litigation Departments  
Toronto, ON, 2003 - 2004

- complex tort, insurance, and commercial litigation cases for national and international insurers and corporations
- lead and co-counsel for tort and insurance cases for two of Canada's trans-continental railway companies
- co-counsel on cases at Court of Appeal for Ontario

**Carrel+Partners** – Associate, Litigation Department  
Thunder Bay, ON, 2001 - 2003

- complex tort, insurance, professional negligence cases for plaintiffs, insurers and institutional defendants
- co-counsel on cases at Supreme Court of Canada and Court of Appeal for Ontario

**Carrel+Partners** – Student Law Clerk

Thunder Bay, ON, 1997 - 1999 (summers)

- research and writing for complex torts, insurance, professional negligence cases

## Education

**Harvard Law School** – Masters of Law (LL.M.) 2000  
Cambridge, MA

- Thesis: *Ambiguous Cause-in-Fact in the United States, Canada, and Britain*, supervised by Professor Jon Hanson (later published in *Texas Int'l LJ*)
- Research Assistant to Professor Paul C. Weiler - assisted with preparations for submissions to U.S. Congress on medical malpractice reform

**Osgoode Hall Law School** – Juris Doctor (J.D.) 1999  
Toronto, Ontario, Canada

- Senior Editor, *Osgoode Hall Law Journal*, 1997 - 1999
- George M. Miller Prize for academics
- Newton Rowell Scholarship for academics and public service

**Lakehead University** – Honours Bachelor of Arts, English (H.B.A.) 1996  
Thunder Bay, Ontario

- Ranked first in degree program of 200
- graduated with First Class Standing
- Evelyn Halliday Scholarship for highest standing in Honours English, 1995

- Iris Jean Richards Scholarship for highest standing in English, 1993
- Thunder Bay Foundation Joshua Dyke Scholarship for academics and public service, 1992
- Canadian Merit Foundation - Outstanding Nomination Award for academics and public service, 1992

## **Publications**

### ***1.0 Refereed Research Contributions***

#### ***1.1 Law Review Articles***

with Jeffrey W. Stempel, “Protecting Auto Accident Victims from the Insurer Identity Crisis” (forthcoming (2020) \_\_ CONNECTICUT INSURANCE LAW LJ \_\_) (55 pages).

“Coherence and the Committed Civilian: Justice LeBel’s Contributions to Canadian Accident Law,” (2015) 70 SUPREME COURT L REV (2d) 93-121. (28 pages)

“Fortuity Victims and the Compensation Gap: Re-envisioning Liability Insurance Coverage for Intentional and Criminal Conduct,” (2014) 21 CONNECTICUT INSURANCE LAW LJ 209-253. (44 pages)

Co-author with Thomas Rowe, David Bamford, and Shirley Shipman, “The Teaching of Procedure Across Common Law Systems,” (2013) 51 OSGOODE HALL LJ 1-43. (43 pages)

Co-author with David Bamford, Trevor C.W. Farrow, Michael Karyanni, Shirley Shipman, and Beth Thornburg, “Learning the ‘How’ Of the Law: Teaching Procedure and Legal Education,” (2013) 51 OSGOODE HALL LJ 45-91 (2013). (46 pages)

Co-author with Beth Thornburg, Carla Crifo, Camille Cameron, and David Bamford, “A Community of Procedural Scholars: Teaching Procedure and the Legal Academy,” (2013) 51 OSGOODE HALL LJ 93-155. (62 pages)

“Causation in Canadian Insurance Law,” (2013) 50 ALBERTA L REV 631-658. (28 pages)

“Fortuity Clauses in Liability Insurance: Solving Coverage Dilemmas for Intentional and Criminal Conduct,” (2011) 36 QUEEN’S LJ 73. (44 pages)

“Auto Insurance as Social Contract: Solving Automobile Insurance Coverage Disputes Through a Public Regulatory Framework,” (2011) 48 ALBERTA LAW REV 715. (38 pages)

- cited by the Court of Appeal for Ontario in *Abarca v Vargas*, 2015 ONCA 4
- cited by the British Columbia Court of Appeal in *Niedermeyer v Charlton*, 2014 BCCA 16

“The Cost of Costs: The Unfortunate Deterrence of Everyday Civil Litigation in Canada,” (2010) 36 QUEEN’S LJ 113. (48 pages)

- cited by the Ontario Superior Court of Justice in *Ted Thomson Management Inc. v 1331503 Ontario Ltd.*, 2013 ONSC 2025

“Clarifying Causation in Tort,” (2010) 33 DALHOUSIE L.J. 153. (37 pages)

- cited by the following courts:
  - Court of Appeal for Ontario in *Sacks v Ross*, 2017 ONCA 773 and *M.B. v 2014052 Ontario Ltd. (Deluxe Windows of Canada)*, 2012 ONCA 135;
  - British Columbia Court of Appeal in *Clements v Clements*, 2010 BCCA 581;
  - Ontario Superior Court of Justice in *Sacks v Ross*, 2015 ONSC 7238 and *Moore v Getahun*, 2014 ONSC 237;
  - Alberta Court of Queen’s Bench in *Alberta (Workers’ Compensation Board) v Alberta (Appeals Commission)*, 2012 ABQB 733;
  - British Columbia Supreme Court in *McArthur v Hudson*, 2012 BCSC 1293 and *Ek Estate v Littler*, 2011 BCSC 1756

Erik S. Knutsen & Sean Rehaag, “Introduction to ‘Convergence in Dispute Resolution Processes’,” (2010) 49 *Supreme Court Law Review* (2d) 463 (also reproduced in Janet Walker & Oscar G. Chase, eds., COMMON LAW, CIVIL LAW AND THE FUTURE OF CATEGORIES 463 (LexisNexis: 2010)). (12 pages)

## 1.2 Book Reviews

“MIDDLE INCOME ACCESS TO JUSTICE by Michael Trebilcock, Anthony Duggan and Lorne Sossin, eds.” (2013) 50 OSGOODE HALL LJ 1063-1070. (7 pages)

## 1.3 Book Chapters

“A Reflexive Approach to Accident Law Reform” in Eoin Quill, ed., DAMAGES AND COMPENSATION CULTURE: COMPARATIVE ESSAYS (Hart: Oxford, 2016) (13 pages)

“Coherence and the Committed Civilian: Justice LeBel’s Contributions to Canadian Accident Law,” in Dwight Newman & Malcolm Thorburn, THE DIGNITY OF LAW: THE LEGACY OF JUSTICE LOUIS LEBEL (LexisNexis: 2015) (also reproduced in SUPREME COURT L REV). (30 pages)

Erik S. Knutsen & Janet Walker, “What is the Cost of Litigating in Canada?” in Christopher Hodges, Stephan Vogenauer and Magdalena Tulibacka, eds., THE COSTS AND FUNDING OF CIVIL LITIGATION: A COMPARATIVE PERSPECTIVE (Hart: Oxford, 2010) 239-260. (21 pages)

Erik S. Knutsen & Sean Rehaag, “Introduction to ‘Convergence in Dispute Resolution Processes’,” in Janet Walker & Oscar G. Chase, eds., COMMON LAW, CIVIL LAW AND THE FUTURE OF CATEGORIES 463 (LexisNexis: 2010) (also reproduced in (2010) 49 *Supreme Court Law Review* (2d) 463).

## **2.0 Non-refereed Research Contributions**

### **2.1 Law Review Articles**

with Jeffrey W. Stempel, “The Techno-Neutrality Solution to Navigating Insurance Coverage for Cyber Losses” (2018) 122 PENN STATE L REV 645. (38 pages)

“The Medical Malpractice Landscape in Ontario: Facts, Trends and Analysis of Trials and Appeals,” (2017) 47 ADVOCATES QUARTERLY 131-164. (34 pages)

“Patchwork Contextualism in the Anglo-Canadian Law of Insurance Policy Interpretation: Implications for the PRINCIPLES OF THE LAW OF LIABILITY INSURANCE,” (2015) 68 RUTGERS U L REV 415-453. (38 pages)

“Coping with Complex Causation Information in Personal Injury Cases,” (2013) 41 ADVOCATES QUARTERLY 149-178. (30 pages)

- cited by the following courts:
  - Court of Appeal for Ontario in *Sacks v Ross*, 2017 ONCA 773
  - Nova Scotia Supreme Court in *Ketler v Nova Scotia*, 2015 NSSC 170
  - Saskatchewan Queen’s Bench in *Herbert v Auto Connection Ltd.*, 2017 SKQB 110

“Five Problems With Personal Injury Litigation (And What To Do About It!),” (2013) 40 ADVOCATES QUARTERLY 492-517. (26 pages)

“Causal Draws and Causal Inferences: A Solution to *Clements v. Clements* (and other causation cases),” (2011) 39 ADVOCATES QUARTERLY 241. (16 pages)

“Keeping Settlements Secret,” (2010) 37 FLORIDA STATE U L REV 945. (70 pages)

- cited by the U.S. Bankruptcy Court, D. Mass. in *In re Blake*, 452 B.R. 1 (2011)

“Confusion About Causation in Insurance: Solutions for Catastrophic Losses,” (2010) 61 ALABAMA L REV 957. (67 pages)

- cited by the following courts:
  - U.S. Fourth Circuit Court of Appeals in *First Professionals Ins Co v Sutton*, 607 FedAppx 276 (2015) (CA 4th Cir.)
  - Iowa Supreme Court in *Amish Connection, Inc. v. State Farm Fire and Cas. Co.*, 861 NW2d 230 (2015) (Iowa)
  - New Mexico Court of Appeals in *HealthSouth Rehabilitation Hospital of New Mexico, Ltd. v. Brawley*, 369 P3d 27 (NM CA) (2016)

“Ambiguous Cause-in-Fact and Structured Causation: A Multi-Jurisdictional Approach,” (2003) 34 TEXAS INT’L LJ 249-289 (40 pages)

- cited by Court of Appeal for Ontario in *Aristorenas v ComCare Health Services* (2006), 83 O.R. (3d) 282 (C.A.)

“Techno-neutrality of Freedom of Expression in New Media Beyond the Internet: Solutions for the United States and Canada,” (2001) 8 UCLA ENTERTAINMENT L REV 87-183. (96 pages)

- cited by Court of Justice of the European Union in *eDate Advertising GmbH v X; Martinez and another v MGN Ltd.*, [2012] QB 654 (EU CJ)

“Science-Policy Disputes: Resolution Through Data Mediation,” (2001) J DISPUTE RESOLUTION 301-320. (19 pages)

## **2.2 Book Reviews**

“RIGHTS AND PRIVATE LAW by Donal Nolan and Andrew Robertson, eds.” (2013) 54 CANADIAN BUSINESS LJ 461-467. (6 pages)

*The Ultimate Limitation Period: Updating the Limitation Act*, (2003) 39 CAN. BUSINESS LJ 148-160. (12 pages)

## **2.3 Books**

Allen Linden, Bruce Feldthusen, Erik S. Knutsen, Margaret Hall & Hilary Young, CANADIAN TORT LAW, 11th ed. (LexisNexis: 2018).

Jeffrey W. Stempel and Erik S. Knutsen, STEMPEL & KNUTSEN ON INSURANCE COVERAGE, 4th ed. (WoltersKluwer: 2015 - present) (2 volume, 3,006 page looseleaf treatise on American insurance law, updated at least twice a year).

- cited by the US Dist. Ct. for the E.D. Tenn in *Auto-Owners Ins. Co. v Southeastern Car Wash Systems*, F.Supp.3d (2016) (US Dist. E.D. Tenn.)

## **2.4 Casebooks**

Co-author with Jeffrey Stempel, PRINCIPLES OF INSURANCE LAW, 5th ed. (Carolina Academic Press, forthcoming 2020) (American casebook).

“The Economics of Litigation,” “Trials, Juries and Appeals,” “Limitation of Actions,” “Settlement,” and “Court-connected Mediation” in Janet Walker *et al*, THE CIVIL LITIGATION PROCESS: CASES AND MATERIALS, 8th ed. (Emond Montgomery: 2015) (Canadian civil procedure casebook).

Co-author with Jeffrey Stempel and Peter N. Swisher, PRINCIPLES OF INSURANCE LAW, 4th ed. (LexisNexis: 2011) (American casebook).

“The Economics of Litigation,” “Limitation of Actions,” “Settlement,” “Intervention,” “Consolidation,” “Addition of Claims,” and “Joinder of Multiple Parties” in Janet Walker *et al*, THE CIVIL LITIGATION PROCESS: CASES AND MATERIALS, 7th ed. (Emond Montgomery: 2010).

## 2.5 *Conference Proceedings at Scholarly Conferences*

“Closing the Gate on Ontario Securities Class Actions,” *The Corporation in the Courts: 13th Annual Queen’s Business Law Symposium*, (Kingston: 2008).

## 3.0 *Publications in Legal Professional Outlets*

“Causation in Automobile Liability Insurance” *THE LITIGATOR: JOURNAL OF THE ONTARIO TRIAL LAWYERS ASSOCIATION* (Fall 2011).

with Helen H. Chan, “Peoples’ Republic of China Insurance: Wrestling Investment from Regulatory Talons” *Westlaw Business Currents*-Thomson Reuters (August 10, 2010).

“Seeking Leave to Appeal to the Supreme Court of Canada for Personal Injury Cases” *THE LITIGATOR: JOURNAL OF THE ONTARIO TRIAL LAWYERS ASSOCIATION* (July 2009).

“Causation in Medical Malpractice at the Court of Appeal for Ontario,” *Ontario Trial Lawyers Association Medical Malpractice Newsletter* (summer 2008).

“Ontario’s *Limitations Act, 2002*: Highlights in a Banking Context,” *23 NAT’L BANKING L. REV.* 1 (2004).

“Limitation Periods and the Symbiosis of Capacity and Discoverability,” in T. Archibald and M. Cochrane, eds., *ANNUAL REVIEW OF CIVIL LITIGATION 2002* (Toronto: Carswell, 2003) at 237-253.

“Examination for Discovery of the Plaintiff: What the Defence Must Achieve for Success at Trial” in R. Oatley and J. McLeish, eds., *The Oatley-McLeish Guide to Personal Injury Practice in Motor Vehicle Cases* (2003) (looseleaf) (Toronto: Canada Law Book).

“A Litigator’s Guide to the *Limitations Act, 2002*” in R. Oatley and J. McLeish, eds., *The Oatley-McLeish Guide to Personal Injury Practice in Motor Vehicle Cases* (2003) (looseleaf) (Toronto: Canada Law Book).

Co-author, “Overlapping Coverage: The Matrix of Coverage, ‘Other Insurance,’ Causation, and Exclusions” *The Six Minute Insurance Primer: Law Society of Upper Canada* (December 4, 2003).

Co-author, *A Principled Approach to Concurrent Causation in Insurance Disputes*, *THE LITIGATOR: JOURNAL OF THE ONTARIO TRIAL LAWYERS ASSOCIATION* 9 (2002).

## 4.0 *Publications in Media Outlets*

“Dangerous Dictionary: The Problem of Meta-Literalism in Insurance Policy Interpretation” *Lawyers Weekly* (October 28, 2011).

“The Innocent Co-insured: Severable Coverage Could Protect Innocent Family Members”  
*Lawyers Weekly* (June 11, 2011).

“Auto Insurance as a Social Contract: Why the Contractual Model for Interpretation Doesn’t Work” *Lawyers Weekly* (October 29, 2010).

“Why Insurers Should Re-Think Criminal Conduct Exclusions” *Lawyers Weekly* (May 4, 2010).

“Defining “Accident:” Abandoning Prior Tortured Approaches” *Lawyers Weekly* (March 27, 2009).

“Categorizing Concurrent Causation in Insurance,” *Lawyers Weekly* (March 21, 2008).

## **Presentations**

### ***1.0 Peer-reviewed Scholarly Presentations***

with Barbara Billingsley, Trevor Farrow, Noel Sempel, and Anna Lund, “Developing Practice Foundations Through Experiential Learning in the Civil Procedure Classroom” Canadian Association of Law Teachers Annual Conference, Kingston, ON (May 31, 2018).

with Jeffrey W. Stempel, “Techno-neutrality: Navigating Insurance Coverage for Cyber Losses” Penn State Law Review Symposium on Cyber Insurance, Pittsburgh, PA (April 13, 2018).

with Jeffrey W. Stempel, “Rejecting Word Worship: An Integrative Approach to Insurance Policy Construction” American Law Institute Early Career Scholars Medal Conference, Washington, D.C. (April 6, 2018).

“Canada’s Accident Law System as Triumvirate of Tort, Insurance and Civil Litigation: Implications for Ireland” International Commercial and Economic Law Group, University of Limerick School of Law, “Compensation Culture: Comparative Tort Law Reform in the 21st Century” conference, Limerick, Ireland (May 23-24, 2014).

“Why Compensating Medical Malpractice Patients Fails in Canada: Empirical Evidence from the Court of Appeal for Ontario” U. de Montreal “Compensation and the Common Law” conference, Montreal, PQ (March 21, 2014).

“Fortuity Clauses in Liability Insurance: Solving Coverage Dilemmas for Intentional and Criminal Conduct” Canadian Law and Economics Association Annual Conference, Toronto, Ontario (September 24, 2011).

“Fortuity Clauses in Insurance: Moral Hazard or Moral Crusade?” Spring Conference on Contracts – University of Nevada, Las Vegas (February 27, 2010).



“Confusion About Causation in Insurance: Solutions for Catastrophic Losses” Asia-Pacific Risk and Insurance Association Annual Conference, Peking University, Beijing, China (July 20, 2009) (peer-reviewed).

Co-presenter with Janet Walker, “Litigation Funding and Costs in Canada,” Litigation Funding and Costs Conference, Oxford University Centre for Socio-Legal Studies, (July 6, 2009).

“Default Rules for Concurrent Causation in Insurance Contracts” Association of American Law Schools Insurance Law Section-sponsored poster presentation, AALS Annual Meeting, San Diego, CA (January 10, 2009).

## ***2.0 Non-Peer Reviewed Scholarly Presentations***

“Insurance Policy Interpretation at the Edges of Coverage” Rutgers-Camden School of Law Centre for Risk and Responsibility, Camden, New Jersey, U.S.A. (October 20, 2017).

“A Reflexive Approach to Accident Law Reform” Lakehead University Bora Laskin Faculty of Law, Thunder Bay, Ontario (Sept. 22, 2015).

“Patchwork Contextualism in the Anglo-Canadian Law of Insurance Policy Interpretation: Implications for the RESTATEMENT ON PRINCIPLES OF THE LAW OF LIABILITY INSURANCE” Rutgers Law School Centre for Risk and Responsibility Conference on RESTATEMENT ON PRINCIPLES OF THE LAW OF LIABILITY INSURANCE, Camden, NJ (Feb. 28, 2015).

“A Reflexive Approach to the Symbiotic Nature of Canadian Accident Law” Conference Celebrating Justice Louis LeBel’s Contributions, University of Toronto, Toronto, ON (October 18-19, 2014).

“Synthetic Justice” Windsor Law School Round-table on Civil Procedure, Windsor, ON (March 30, 2014).

“From Fortuity to Morality and Back: Re-envisioning Liability Insurance Coverage for Intentional and Criminal Conduct” Rutgers-Camden School of Law Centre for Risk and Responsibility, Camden, New Jersey, U.S.A. (September 21, 2013).

“Teaching Procedure Across Common Law Systems: Canada,” “Scholarly Symbiosis: Canadian Civil Procedure Teaching and Scholarship,” and “Teaching Civil Procedure as Integrated System in Canada,” Oxford-Queens-Osgoode Project on Civil Procedure, Herstmenecux, England (June 26, 2010).

Canadian Studies Visiting Lecture, “Canada’s Accident Compensation System: Some Reflections for China” Fudan University School of Law, Shanghai, China (May 6, 2010).

“Canada’s Accident Compensation System: Some Reflections for China” School of Law, Shanghai University of Finance and Economics, Shanghai, China (May 5, 2010).

Moderator, “Convergence in ‘Dispute Resolution’ Processes,” International Association of Procedural Law 2009 Conference, Toronto, ON (June 4, 2009).

“Keeping Settlements Secret,” PrawfsFest Junior Scholars Conference, Florida State University College of Law, Tallahassee, FL (April 29, 2009).

“Default Rules for Concurrent Causation in Insurance Contracts” Queen’s University Law, Economics, and Public Policy Speaker Series, Queen’s University, Kingston, ON (February 2, 2009).

“Secret Settlements,” Young Scholars’ Conference – McGill - Queen’s University Faculty of Law, Queen’s University, Kingston, ON (January 23, 2009).

Panelist, “Class Actions: The Next Wave,” The Corporation in the Courts: 13th Annual Queen’s Business Law Symposium, Kingston, ON (September 19, 2006).

“Concurrent Causation in Insurance Contracts,” Florida State University College of Law – Faculty Workshop Lecture Series, Tallahassee, FL (June 17, 2006).

Harvard Law School – Guest Lecture, Entertainment and Media Law class, (reforms in intellectual property law in entertainment industry), Cambridge, MA (Oct. 13, 2004).

### ***3.0 Legal Practice and Judicial Education Presentations***

“Causation, Science and Juries in the New MVA World” Law Society of Ontario Motor Vehicle Accident Summit II, Toronto, ON (March 29, 2019).

Academic Program Committee Co-Coordinator, National Judicial Institute’s annual nationwide Civil Law Program 2018 – Technological Transformation of Civil Law, St. John’s, NL (May 8-11, 2018)

- in addition to program co-ordination duties, presented three sessions: medical malpractice, compensation for cyber harms and a final topic summation

“Two New Directions in Tort: Proving Mental Injury and Battling Causation Challenges” Thunder Bay Law Association Conference, Thunder Bay, ON (October 13, 2017).

“The Bleeding Edge: The Top Five Defence Cases of 2016-2017” Canadian Defence Lawyers Association Annual Conference, Toronto, Ontario (June 7, 2017).

“Insurance Policy Interpretation: Getting Language to Work for You” Ontario Trial Lawyers Annual Conference, Toronto, Ontario (October 28, 2016).

Academic Program Committee Co-Coordinator, National Judicial Institute’s annual nationwide Civil Law Program 2016 – Remedies for Civil Claims, Vancouver, BC (May 16-19, 2016)

- in addition to program co-ordination duties, presented session on tort causation

“The Continuing Evolution of Causation in Personal Injury Claims” 10th Annual Update: Personal Injury Law and Practice, Osgoode Professional Development, Osgoode Hall Law School (September 30, 2014).

Academic Program Coordinator, National Judicial Institute’s annual nationwide Civil Law Program 2014 – Tort Law in an Age of Flood and Fire, Montreal, PQ (May 13-15, 2014)  
• in addition to program co-ordination duties, presented sessions on Medical Malpractice Appellate Trends and Causation in Insurance

“Negligent Misrepresentation Damages: Tort versus Contract” National Judicial Institute Program for Alberta Queen’s Bench, Calgary, AB (January 30, 2014).

“Medical Malpractice at the Court of Appeal for Ontario” Medical Malpractice Section, Ontario Trial Lawyers Association Conference, Toronto, ON (April 12, 2013).

“The Top Five Things Wrong with Personal Injury Law (and What To Do About It)” Ontario Trial Lawyers Association Annual Spring Conference 2012, Toronto, ON (June 18, 2012).

Keynote Address: “Understanding Causation” Advocates Society Annual ‘Tricks of the Trade’ Conference, Toronto, ON (January 27, 2012).

“Clarifying Causation in Tort” Causation in Tort II, Continuing Legal Education Society of British Columbia, Vancouver, BC (June 2, 2011).

“Fortuity Clauses in Liability Insurance: Coverage Issues for Intentional and Criminal Conduct” Ontario Trial Lawyers Association Annual Spring Conference, Toronto, ON (May 26, 2011).

“Clarifying Causation in Canada,” Ontario Trial Lawyers Association Annual Spring Conference, Toronto, ON (May 27, 2009).

“Persuasive Advocacy and Practical Research,” Thunder Bay Law Association Conference, Thunder Bay, ON (October 14, 2007).

“Arguing American Personal Injury Law in Canadian Courts,” 2006 Ontario Trial Lawyers Association Fall Conference, Toronto, ON (October 26, 2006).

“Pushing the Doctrinal Envelope in Ambiguous Causation Cases,” Litigating and Defending Against Subtle Injury Disability Claims, Insight (April 29, 2004).

“Examination for the Discovery of the Plaintiff: What the Defence Must Achieve for Success at Trial,” The Oatley-McLeish Guide to Personal Injury Practice in Motor Vehicle Cases: Law Society of Upper Canada (December 9, 2003).

“Limitation Periods and the Symbiosis of Capacity and Discoverability,” Thunder Bay Law Association Continuing Legal Education Conference, Thunder Bay, ON (October 18, 2003).

“Capacity, Insurance Limitations Periods, and The Adjuster,” Thunder Bay Insurance Adjusters Association Annual Conference, Thunder Bay, ON (November 30, 2001).

“Insurance Limitation Periods: It Isn’t Over Until It’s Really Over,” Thunder Bay Law Association Continuing Legal Education Conference, Thunder Bay, ON (October 25, 2001).

#### **4.0 Other Presentations**

“Learning the Hard Way: Applying for a Social Sciences and Humanities Research Council (SSHRC) Insight Grant” Queen’s University Research Services Grant Information Session (Sept. 9, 2015).

“Fortuity Clauses in Liability Insurance: Solving Coverage Dilemmas for Intentional and Criminal Conduct,” Inaugural Queens Law Journal Author Lecture, Kingston, Ontario (January 23, 2012).

“Confidential Settlements in Canada,” Cornwall Public Inquiry Research Roundtable on Confidentiality of Settlement Agreements for Abuse Claims, Cornwall, ON (December 4, 2008) (invited presenter).

Panel Moderator, Young Scholars’ Conference – McGill University Faculty of Law, Montreal, PQ (January 26, 2007).

“Riding Out the Internet Storm: Legal Challenges to the Provision of Internet Services to the Public,” Ontario Library Association SuperConference IV, Toronto, ON (January 22, 1999).

#### **Research Grants**

“Floods, Fires, Crashes: Resolving Post-Disaster Insurance Coverage Conflicts in Canada” (\$152,630) Social Sciences and Humanities Research Council Insight Grant (April 2015).

Queen’s University Senate Advisory Research Committee 4A SSHRC Funding Grant  
“Language of Last Resort in the Wake of Disaster: Constructing a Comparative Conceptual Framework for Canadian Insurance Law” (\$3,500) (May 2014).

Foundation for Canadian Legal Research Grant, “Dueling Duties: Resolving Conflicting Duties of Care in Tort” (\$5,070) (May, 2013).

Foundation for Canadian Legal Research Grant, “Medical Malpractice at the Court of Appeal for Ontario: A Ten Year Empirical Study” (\$5,000) (May, 2011).

Co-applicant, “The Cost of Justice: Weighing the Costs of Fair and Effective Resolution to Legal Problems” (main coordinator is Canadian Forum on Civil Justice, York University) Social Sciences and Humanities Research Council - Community University Research Alliance Grant (\$1,000,000 for 5 years) (August, 2011).

Foundation for Canadian Legal Research Grant, “Fortuity Clauses in Insurance: Moral Hazard or Moral Crusade?” (\$5,000) (March, 2010).

Queen’s University Advisory Research Committee Principal’s Development Fund Grant (competitive application) “Just Accidents or Deadly Force: Tort Liability for Police Pursuit Collisions” (\$5,000) (March 2009).

Queen’s University Travel Grant (\$750) (competitive application) (February 2009).

Foundation for Canadian Legal Research Grant, “Clarifying Causation in Canada” (\$5,000) (May, 2008).

Borden, Ladner, Gervais LLP Fellowship (\$10,000) (February 2, 2007).

### **Graduate Student Supervision**

Michele Leering, PhD (co-supervised with Sharryn Aiken): “Legal Education and ‘Reflective Practice’ in Canada and Australia: Re-imagining Legal Education” (2015-in progress)

Shoba Ranganathan, LL.M.: “Controlling Medical Errors in Primary Care Settings” (2009 - 2012)

### **Graduate Student Examiner Roles**

Ph.D. External Examiner for Gerard Kennedy PHD dissertation: “*Hryniak*, the 2010 Amendments and the First Stages of a Culture Shift: The Evolution of Ontario Civil Procedure in the 2010s” (Osgoode Hall Law School, Toronto, ON, January 20, 2020).

Ph.D. Examination Committee for Ksenia Polonskaya, “Examining the Mechanisms for Dismissal of Frivolous and Abuse of Process Claims in the International Investment Regime: A Case of Failed Legal Transplant?” (2018)

LL.M. thesis examiner for Christa Bracci, “Developing a Taxonomy for Legal Research” (2017).

LL.M. thesis examiner for Imran Akram, “Environmental Law in Pakistan” (2011).

Ph.D. External Examiner for Joseph Campisi, Jr. PhD dissertation: “One Step Forward or Two Steps Back? Access to Justice Through the Lens of Auto Insurance Reform, 1990 – 2008” (Osgoode Hall Law School, Toronto, ON July 13, 2009).

LL.M. Mini-thesis reviewer for:

Phillipe Doumaine, “Arbitration Agreements, Class Actions, and Access to Justice” (2010)

Monu Bansal, “Indian Women and Civil Remedies for Sexual Assault” (September 2007)

Andrij Kowalsky, “After Bill C-49: Access to Civil Justice for Trafficked Persons in Canadian Human Trafficking Policy” (November 2006)

## **Law School and University Service**

### ***University Service***

Member, Queen’s Health Policy Council

Member, Chancellor Charles A. Baillie University Teaching Award Committee (2019)

Member, Queen’s University Law Dean Search Committee (2018 - 2019)

Member (elected), Queen’s University Senate (2014 – 2018)

- Member, Queen’s University Principal Search Committee (2018)
- Chair, Queen’s University Senate Governance and Nominating Committee (2015 – 2017)
- Member, Queen’s University Senate Governance and Nominating Committee (2014 – 2015)

Member, Health Sciences Research Ethics Board, Queen’s University (2016 – 2018)

Member, steering committee for Queen’s Masters of Science in Health Care Quality (interdisciplinary professional degree about patient safety) (2012 – 2016)

Member, Compensation and Benefits Committee, Queen’s University Faculty Association (2011-2013)

### ***Law School Service***

Member, Grades Committee (2018-2020)

Member, Student Awards Committee (2019-2020)

Chair, Term Adjuncts Appointments Committee (2018-2020)

Faculty Advisor, Introduction to Legal Skills Program (2018-2020)

Faculty Appointments Committee (2008 – 2011; 2016 - 2017)

Introduction to Legal Skills Program Faculty Liaison (2016 - 2017)

Renewal, Promotion and Tenure Committee (2011 – 2013, 2015 – 2016)

Organizer, Queen's Law Moot Camp 2015 (training day for all mooters)

Member, Law School Cyclical Review Committee (2014 – 2015)

Member, Law School First Year Curriculum Reform Committee (2014 – 2015)

Member, Law School Strategic Planning Committee (2013 – 2014)

Co-ordinator, Oslers Distinguished Visitors in Law Speakers Series (2012 – 2014)

Member, Curriculum Review Committee (2012 – 2014)

Coach, Ontario Trial Lawyers Association Cup Team (Mock Trial Competition), 2007 – 2014  
(2007 Cup Winners, 2008 Best Advocate Winners, 2010 Best Closing, 2011 Best Team,  
Best Overall Advocate, Best Opening, Best Examination-in-chief, 2012 Best Examination-  
in-chief)

Member, Building Revitalization Project Committee (2010 – 2011)

Admissions, Aboriginal Category Sub-Committee (2007 – 2009)

Access-Mature Category Sub-Committee (2006 – 2007)

Coach, Arnup Cup Team (Mock Trial Competition) (2007)

Judge, Fasken, Martineau, DuMoulin LLP International Law Moot (Toronto) (2008)

Member, Computer-based Exams Committee (2007 – 2009)

Law school representative, Frontenac Law Association, 2007 – 2008

### **Professional Public Service**

Member, Law Commission of Ontario Law School Liaison Group, 2007 – present

Member, Ontario Chief Justice's Advisory Committee on Professionalism, 2009 – present

Member (elected) of Executive, Insurance Law Section, Association of American Law  
Schools, 2010 – 2011 (Treasurer, 2011) (subsequently deemed 'ineligible' as from non-  
U.S. law school).

### **Editorial Board Membership and Peer-Reviewing Activities**

Member, International Reading Committee, *Insurance and Risk Management*

Member, Editorial Board, *Lakehead Law Journal*

Invited peer-reviewer (occasional) for academic journals:

- *Queen's Law Journal*
- *Connecticut Insurance Law Journal*
- *University of British Columbia Law Review*
- *Alberta Law Review*
- *Saskatchewan Law Review*
- *Canadian Bar Review*
- *Canadian Journal of Family Law*
- *Canadian Law & Society Review*
- *Canadian Labour and Employment Law Journal*

Member, Board of Editors, "The Litigator - Journal of the Ontario Trial Lawyers Association," 2006 - 2008.

### **Academic Honours**

- Queen's University-wide Chancellor Charles A. Baillie Teaching award (2018)
- Elected, Member of the American Law Institute (2018)
- Elected Honourary Fellow, American College of Coverage Counsel (pre-eminent insurance lawyer group in the United States, with limited membership) (2018)

### **Academic Affiliations**

- Association of American Law Schools (insurance, torts, civil procedure sections)
- Canadian Law and Economics Association

### **Bar Membership**

Member of Law Society of Ontario (2002 – present)

### **Community Service**

Board Member (appointed), Providence Care Board of Directors (hospital providing rehabilitative, mental health, and long term care services) (2014 – 2017)

- Member, Performance, Assurance and Quality Committee (2014 – 2017)
- Member, Strategic Advisory Committee (2015 – 2017)

Board Member (municipal appointment), Kingston-Frontenac Public Library Board, 2009 – 2015



## **Notable Court Experience**

### **Supreme Court of Canada**

#### **Full Hearings**

*Bannon v Thunder Bay*, [2002] 1 S.C.R. 716, 210 D.L.R. (4th) 62 (co-counsel)  
-incapacity of injured persons extends municipal notice period for tort actions

*Derksen v 539938 Ontario Ltd.*, [2001] 3 S.C.R. 398, 205 D.L.R. (4th) 1, 273 N.R. 356, 33 C.C.L.I (3d) 1, [2002] I.L.R. I-4029, 15 M.V.R. (4th) 1 (research consulting)  
-modernizing concurrent causation doctrine in insurance

#### **Applications for Leave to Appeal**

*Douglas v. Kinger*, [2008] S.C.C.A. No. 363 (co-counsel)  
-do casual employees enjoy tort immunity as against their employers

*R.E. v Wawanesa*, [2007] S.C.C.A. No. 251 (co-counsel)  
-interpretation of intentional and criminal act exclusion in homeowners insurance

*Eichmanis v Prystay*, [2004] S.C.C.A. No. 251 (co-counsel)  
-standard of care for blended family members allowing children to access firearms

*Scott v Continental Insurance Co.*, [1999] S.C.C.A. No. 522 (research assistance)  
-automobile insurance coverage and definition of “automobile”

### **Ontario Court of Appeal**

*R.E. v Wawanesa* (2007), 84 O.R. (3d) 668, 278 D.L.R. (4th) 415 (CA) (co-counsel)  
-interpretation of intentional and criminal act exclusion in homeowners insurance

*Mobile Mini v Centreline Equipment Ltd.*, [2004] O.J. No. 3659 (CA) (co-counsel)  
-equity in applying contractual choice of forum clauses

*Eichmanis v Prystay*, [2004] O.J. No. 1382 (CA) (co-counsel)  
-standard of care for blended family members allowing children to access firearms

*Derksen v 539938 Ontario Ltd.* (1999), 45 M.V.R. (3d) 6 (CA) (research assistance)  
-modernizing concurrent causation doctrine in insurance

*Scott v Continental Insurance Co.*, [1999] O.J. No. 3260 (research/factum assistance)  
-automobile insurance coverage and definition of “automobile”

*Morton v Rabito* (1998), 42 O.R. (3d) 161, 169 D.L.R. (4th) 151, 9 C.C.L.I. (3d) 267, 42 M.V.R. (3d) 36 (intervenor status) (research/factum assistance)  
-automobile insurance coverage and definition of “automobile”

### **Ontario Divisional Court**

*Allen v Orchard Pharmacy*, (2013) ONSC 7499 (co- counsel)  
-estoppel and summary judgment costs issues in employment dispute

### **Ontario Superior Court of Justice**

*R.E. v Wawanesa Mut. Ins. Co.* (2006), 80 O.R. (3d) 114, 36 C.C.L.I. (4th) 75 (co-counsel)  
-homeowners insurance coverage issues for child victim of firearms accident

*Kaizer v Terrace Bay Police et al*, [2004] O.J. No. 1745 (co-counsel)  
-prosecutor and police liability for alleged wrongful assault investigation and conviction

*Bannon v Thunder Bay* (2003), 61 O.R. (3d) 358, 216 D.L.R. (4th) 767 (co-counsel)  
-damages for knee injury, pre-existing conditions, mitigation

*Eichmanis v Prystay*, [2003] O.J. No. 450 (co-counsel)  
-standard of care for blended family members allowing children to access firearms

### **News Media Appearances**

“Smart Gun Argument Makes Danforth Shooting Class Action Hard to Win: Expert”  
National Post, CTV News (December 17,2019).

“‘Not a Public Playground:’ Toronto Church’s Sign Offends Neighbours But Priest Says It’s  
the Only Way to Fend Off Sex, Drugs and Fencing Duels” Toronto Star (Sept. 19, 2019).

“Yonge St. Van Attack Lawsuits Face Hurdles with Insurance Claims” Toronto Star  
(December 3, 2018).

“Lawyers Representing Ontario Actress Suing Weinstein Say They Can’t Find Him” Canadian  
Press, CTV, Global News, Toronto Sun (November 6, 2017).

“‘It’s a Joke!’ Air Transat Passengers Stranded on Ottawa Tarmac to Get \$400 Cheques”  
Ottawa Citizen (August 11, 2017).

“Flood Insurance: What You Need to Know” CBC Ontario Morning (May 9, 2017).

“Provincial Legislation Brings Down Auto Insurance Costs for Consumers” CBC News Radio  
(April 11, 2017).

“Trial Judge’s Discretion in Montreal Malpractice Case Upheld” Lawyers Weekly (December 9, 2016).

“City Faces 35 Lawsuits Seeking \$27 million in Damages Two Years After Bus-Train Crash” Ottawa Citizen (September 18, 2015).

“Six reasons Why It’s Hard to Sue Doctors and Why So Little Compensation” Toronto Star (September 15, 2015).

“Informed Consent Case Goes Ahead On Appeal” Lawyers Weekly (September 4, 2015).

“Doubt is Still Clouding the Matter Of Whether Embattled Lawyer Javad Heydary is Alive or Dead” Toronto Star (January 24, 2014).

“Gamblers’ Class Action Against OLG Denied Again” Lawyers Weekly (August 30, 2013).

“Websites Used to Solve Civil Disputes” (Vancouver Sun, Calgary Herald, Winnipeg Free Press, Ottawa Citizen, Montreal Gazette) (September 27, 2012).

“Mentally Ill Man, Crown Battle for Slain Woman’s Insurance Payout, CBC.ca, MSN.ca, Huffington Canada (August 16, 2012).

“Summary Judgment Benefits Questioned” Lawyers Weekly (July 6, 2012).

“Ontario Seeks Insurance Money: Civil Remedies Act Used in Claim for Murdered Woman’s Policy Payout” Lawyers Weekly (May 11, 2012).

“Ontario Aims to Keep Victim’s Payout from Her Killer” National Post, Montreal Gazette, other postmedia news outlets (April 27, 2012).

“Tobacco Companies Stand Alone After Court Battle” CBC Radio International and CBC Radio “The Link” (August 3, 2011).

“Decision Pits Provinces Against Big Tobacco” Toronto Sun, Vancouver Sun, Montreal Gazette, Ottawa Citizen, Edmonton Journal and 25 other newspapers cross-country (July 30, 2011).

“Insurance Rule Stings Victims of Domestic Violence” Hamilton Spectator (Feb. 10, 2011).

“Gillette Razor Class Action Settlement” CBC Radio East (Nov. 16, 2010).

“Ontario Changes Automobile Insurance” CBC Northeastern Ontario Morning (September 1, 2010).

“Ontario’s New Automobile Insurance Changes” CBC Morning with Rita Celli (August 31, 2010).

“New Auto Reforms” *Lindsay Post* (August 31, 2010).

“One More Hit on the Middle Class” *Toronto Sun* (August 30, 2010).

“Real ‘Choice’ to Pay More for Insurance” *Ottawa Sun* (August 27, 2010).

“Car Insurance?: Your Real ‘Choice’ Is To Pay More” *Toronto Sun* and 18 Sun Media newspapers (August 26, 2010).

“Ontario’s New Auto Insurance” Jim Richards Newsgram Radio Show - NewstalkToronto 1010 (August 22, 2010).

“Reforming Ontario’s Automobile Insurance” John Oakley Radio Show, AM640 Toronto (August 22, 2010).

“New Changes to Ontario’s Automobile Insurance” CBC Ontario Morning, CBC Radio One (cross-province) (August 22, 2010).

“Ontario Changes Automobile Insurance” CBC Northwestern Ontario Morning (August 22, 2010).

“Ontario Car Insurance Reforms Too Complex: Prof” (Canadian Press Story run in CBC News online, CTV Online, Google.ca, Yahoo.ca, and most print newspapers in the country) (August 22, 2010).

“New Reforms to Ontario’s Automobile Insurance” *Toronto Star* (August 19, 2010).

“Optimism Bias in Tort Law” *Lawyers Weekly* (April 30, 2010).

“Saying Sorry Now A Little Easier: *Apology Act* Makes Contrition Safer But Who IS It Really Helping?” *Hamilton Spectator* (April 29, 2009).

“Class Actions Rising,” *National Post* (April 27, 2009)

“Saying Sorry is a Way Back to Grace: Ontario’s *Apology Act* Makes Contrition Easier,” *Toronto Star* (April 27, 2009).

“Merck/Vioxx Class Action De-certification in Saskatchewan,” Associated Press story run in various media (The Record, Yahoo, Canoe, CNet) (March 31, 2009).

“Ontario’s New Apology Act,” CKCU 93.1 FM - Ottawa radio (March 18, 2009).

“Municipal liability for roadways,” *Kingston Whig-Standard* (February 25, 2009).

“Legal concerns about class actions for *listeria* in poisoned meat,” CBC Radio News Northwestern Ontario (Thunder Bay), CBC Radio News Northeastern Ontario (Sudbury) (September 2, 2008).

“Class actions from tainted meat across Canada,” CBC Radio - Ontario Morning (August 28, 2008).

Invited guest blogger, *Lawprawns* blog (leading U.S. law professors online blog) (February and March, 2008).

“Moore lawsuit likely to settle out of court; Moore v. Bertuzzi; 90% of civil cases never go to trial, legal experts say,” *National Post* (Saturday, December 22, 2007).

“Bertuzzi, Canucks case unlikely to see courtroom,” *Vancouver Sun* (Friday December 21, 2007).

“The *Reynolds* Appeal: Witness Immunity from Civil Suits,” CBC Radio Morning, CBC Radio News - Vancouver, Calgary, Regina, Whitehorse, Winnipeg, Thunder Bay, Toronto, Sudbury, Ottawa, Quebec City, St. John’s (March 15, 2007).

“Witness Immunity from Civil Suits,” CBC Radio-Ottawa (January 25, 2007).

“Advocates for the Wrongfully Convicted Join Fight to Sue Pathologist,” CBC News online (January 24, 2007).

### **Languages**

- French (intermediate fluency – oral and written)

Current as to February 24, 2020