

Applicable toward CPD Requirement

# 2nd Adjudication in Alberta

Master the fundamentals of administrative law that apply to running a fair hearing and ensuring an equitable decision-making process

May 5 & 6, 2015, Calgary

Workshop Included:  
Writing Style And Plain Language

## who should attend

Chairs, Vice-Chairs, Members, Counsel & Adjudicators For Administrative, Professional & Police Discipline Tribunals, Commissions, Boards & Agencies; City Councilors & others on adjudicative committees

## course highlights

- Examine decision writing techniques that will stand up well under judicial scrutiny
- Explore the key steps in conducting a fair disciplinary hearing
- Learn how to effectively organize and render adjudication decisions
- Discover how to achieve a balance between judicial transparency and privacy protection
- Review best practices for organizing and conducting hearings
- Benefit from successful strategies for maintaining control during hearings
- Gain insights into the standard of review of judicial decisions
- Get practical tips on increasing effectiveness in decision writing

Two-Day Event!



Course Leader  
Shirish P. Chotalia Q.C.,  
**Pundit & Chotalia LLP**



Course Leader  
Mylène D. Tiessen,  
**Peacock Linder Halt & Mack LLP**



Andrew Bachelder,  
**Public Lands Appeal Board**



Michael J. Donaldson,  
**Burnet, Duckworth & Palmer LLP**



James T. Eamon, QC,  
**Gowling Lafleur Henderson LLP**



Barbara Romaniuk,  
**Wordsmith Associates  
Communications Consultants Inc.**



Andrew Stead,  
**McMillan LLP**



Susan E. A. Trylinski,  
**Municipal Counsellors**



Jill W. Wilkie,  
**Miller Thomson LLP**



Anthony G. Young, Q.C.,  
**Dunphy Best Blocksom LLP**



Carol M. Zukiwski,  
**Reynolds Mirth Richards &  
Farmer LLP**

Speakers & Participating Organizations

## COURSE LEADERS

### SHIRISH P. CHOTALIA Q.C.

Shirish P. Chotalia, Q.C. is a Partner at **Pundit & Chotalia LLP**. She practices in the areas of immigration law and civil litigation and has litigated high profile immigration and human rights cases.

### MYLÈNE D. TIESSEN

Mylène D. Tiessen is a Partner at **Peacock Linder Halt & Mack LLP**. She has appeared in all levels of Court in Alberta. She has represented corporate and individual clients in various civil litigation matters and she acts as counsel for the Law Society of Alberta' insurers in the defence of professional negligence claims.

## CO-LECTURERS

### ANDREW BACHELDER

Andrew Bachelder is Legal Counsel at the **Public Lands Appeals Board**. He has extensive experience with administrative tribunals, both as legal counsel to clients and now as legal counsel to a tribunal.

### MICHAEL J. DONALDSON

Michael J. Donaldson is a Partner at **Burnet, Duckworth & Palmer LLP**. He acts as counsel in arbitrations under Alberta's legislated Power Purchase Arrangements and in related court proceedings.

### JAMES T. EAMON, QC

Jim Eamon, is a Partner at **Gowling Lafleur Henderson LLP**. He has extensive experience in managing administrative proceedings as a former Chair of the Conduct Committee of the Law Society of Alberta, as a member of adjudicative tribunals, and counsel in judicial review/appeal of tribunal decisions.

### BARBARA ROMANIUK

Barbara Romaniuk is a Senior Legal Editor and instructor at **Wordsmith Associates Communications Consultants Inc.**, which trains lawyers and non-legal writers in clear writing, with a strong emphasis on plain language.

### ANDREW STEAD

Andrew Stead is a Partner at **McMillan LLP**. His has extensive experience in both litigation and arbitration, including defending product liability claims, energy, automotive and construction disputes.

### SUSAN E. A. TRYLINSKI

Susan E. A. Trylinski is a Partner at **Municipal Counsellors**. She has more than 15 years of legal experience in local government with emphasis on municipal taxation and administrative law.

### JILL W. WILKIE

Jill Wilkie is a Partner at **Miller Thomson LLP**. She concentrates her practice in the areas of employment, human rights, privacy and health.

### ANTHONY G. YOUNG, Q.C.

Anthony G. Young, Q.C. is a Partner at **Dunphy Best Blocksom LLP**. He was elected a Bencher of the Law Society of Alberta in 2009. In this capacity, he has served on many administrative hearing panels. He is currently Chair of the Alberta Law Foundation.

### CAROL M. ZUKIWSKI

Carol M. Zukiwski is a Partner at **Reynolds Mirth Richards & Farmer LLP**. She represents clients before tribunals and then in Court when leave to appeal or judicial review is filed.

# COURSE PROGRAM

## STRUCTURED DECISION MAKING

Every decision should have express regard to policy, law or precedent on a particular matter, as well as being well reasoned. However in order to achieve such a result, a structured decision making process should be employed. This session will examine best approaches for applying a structured decision making approach.

- Key steps in a structured decision making process
- Clearly defining the problem and the decision to be made
- Identifying critical decision points
- Making explicit and transparent choices
- Structured approach to evaluating information presented
- Increase reliability and validity of decisions

## CONDUCTING A FAIR AND IMPARTIAL DISCIPLINARY HEARING

If the matter is serious enough and is referred to a disciplinary hearing, there are various steps necessary to ensure that the process is fair. This session will explore key issues in conducting a fair and impartial hearing.

- Carrying out an investigation to establish all the facts
- Best practices in conducting a fair hearing: key procedural issues
- Extending a proper invitation to the disciplinary hearing
- Setting out the allegations and possible consequences
- Rules for documentary evidence and witnesses
- The right to be accompanied/represented
- Adjourning the hearing: determining if further investigation is required
- Determining the outcome of the disciplinary hearing
- Grounds for appeal and the appeal process

# webcast



While nothing compares to the experience of attending the live event, with its enhanced networking opportunities and direct contact with leading experts, for those unable to attend in person FP provides a convenient option to still benefit from this unsurpassed learning experience:

FP's live interactive Webcasts allow you to actively participate in events, from downloading all material distributed by lecturers to asking speakers questions.

- This program can be applied towards 9 of the 12 hours of annual Continuing Professional Development (CPD) required by the Law Society of Upper Canada. Please note that these CPD hours are not accredited for the New Member Requirement.
- For Alberta lawyers, consider including this course as a CPD learning activity in your mandatory annual Continuing Professional Development Plan as required by the Law Society of Alberta.
- Attendance at this course can be reported as 10 hours of Continuing Professional Development (CPD) to the Law Society of B.C.
- The Barreau du Québec automatically accredits training activities held outside the Province of Quebec and accredited by another Law Society which has adopted MCLE for its members

# COURSE PROGRAM

## CONDUCTING THE HEARING

With the twists and turns of witnesses, evidence and procedural motions, conducting a hearing can turn out to be a complex, and sometimes even a daunting, task. This session will examine the key issues to consider when preparing for, and conducting, a hearing.

- Controlling the hearing while ensuring fairness in the presentation of evidence
- Setting the stage with your introductory remarks
- Focusing the hearing
- Handling tough questions: privilege and conflicts of interest
- Handling objections

## MAINTAINING CONTROL OF HEARINGS

One of the most difficult jobs of the adjudicator is to maintain control of complex and, at times, unwieldy hearings, while ensuring the doctrine of fairness is upheld throughout. This session will explore strategies for dealing with unexpected challenges during hearings, and review the tools available to the tribunal to start a hearing on the right note and maintaining control of it.

- Effectively setting the ground rules early in the process
- Completing the hearing fairly and within the allotted time
- Maintaining control of counsel, witnesses and observers
- Tribunal's options when faced with a motion to recuse
- What to do if you have concerns about your own bias

## JUDICIAL REVIEW PROCESS FOR TRIBUNAL DECISIONS

This session provides an overview of the judicial review process and explores how you can discharge your statutory duties without fear of being reversed by the courts for violating an expected standard of fairness.

- Deference to the tribunal
- Standards applicable to judicial review vs. an appeal
- The impact of allegations of bias on judicial review proceedings
- Statutes governing judicial review
- Remedies available on judicial review
- Bars to judicial review

## LEGAL FRAMEWORK GOVERNING ADMINISTRATIVE HEARINGS

This session will examine the legal framework that governs administrative hearings and provide an overview of some of the fundamentals of administrative law as they apply to running a fair hearing, including:

- Fairness principle and its role in the conduct of hearings
- Right to be heard and its impact in the tribunal context
- Rules of evidence
- Addressing fairness challenges

## ADVOCACY BEFORE ADMINISTRATIVE TRIBUNALS

With the role of tribunals being to dispense justice within a specialized field and arriving at a right answer, as opposed to the better choice between positions, lawyers appearing before tribunals must not only act to protect their client's interests, but also to assist the tribunal in their search for the correct decision. This session will explore practical tips for advocacy before administrative tribunals.

- Understanding the legal framework that the tribunal operates within: policies, guidelines, and procedures specific to the tribunal
- Prehearing preparation: making a clear, pertinent, and persuasive case in writing
- Briefing witnesses appropriately

- Best practices for telling your story through evidence-in-chief and cross-examination
- Assisting the panel with difficult issues and identifying the panel's underlying concerns
- Best practices for questioning witnesses
- Dealing with unrepresented parties
- Role of privilege in the administrative context
- Settlements in the administrative context

## FORMULATING REASONS FOR DECISIONS

Reasons should contain adequate factual and legal grounds. They should be sufficiently complete and clear. This session will examine best practices for ensuring the adequacy of reasons in administrative tribunal decisions.

- Elements and structure of a good decision
- Speaking to issues of credibility
- Setting out sufficient legal grounds
- Providing clear reasons
- Judicial review and reasons

## DECISION WRITING TIPS AND BEST PRACTICES

Members of administrative tribunals, commissions, boards and agencies usually develop their decision writing ability on the job, learning as they go by following what is - or what they perceive to be - the traditional way of writing for tribunals. This session will explore some of the common errors made in decision writing today and offer practical suggestions for honing your skills.

- Decision writing do's and don'ts
- Decision writing checklist
- The application of principles of natural justice
- Consultation
- Privacy considerations in writing a decision

## WORKSHOP

### WRITING STYLE AND PLAIN LANGUAGE

Decisions should not only be well-organized, concise and clear in thought and expression, but also well written. This workshop is designed to assist decision-makers in improving their writing style and skills, stressing the nature of good prose, use of language and the special requirements of decision writing in order to write clear, concise and coherent reasons.

- Organization issues
- The need for plain language
- Plain language tips
- Avoiding common errors

# PROCEEDINGS

The "Proceedings" is your Web repository of learning resources for this event. It includes:

- the recording of the lectures at the forthcoming event itself, including documentation, slides and audio-visual;
- 25 or more carefully selected additional lectures (below), which are intended as a recommended enrichment of the course content, with many additional topics covered.

The price of the Proceedings (one user licence) is \$299 if you are attending in person or by Webcast; or \$799 otherwise.

## Applying Law to Factual Findings & Formulating Reasons for Decisions

Glenn Solomon, Q.C.  
*License and Community Standards Appeal Board*

## Writing Effective Issues Statements & Conclusions

Christina Gauk  
*Office of the Information and Privacy  
Commissioner of Alberta*

## Impact of Policy and Precedent in Decision Writing

Anne Côté  
*Field Law LLP*

## Judicial Review and Reasons

Cynthia Amsterdam  
*Fraser Milner Casgrain LLP*

## Decision Writing Tips and Best Practices

Jim McCartney  
*McCartneyADR Inc.*

## Introduction to the Decision Writing Process

Carol M. Zukiwski  
*Reynolds Mirth Richards & Farmer LLP*

## Workshop: Ensuring Adequacy of Reasons in Your Decisions

Gerald D. Chipeur, Q.C.  
*Miller Thomson LLP*

## Impartiality and Cultural Sensitivity

John E. Phillips  
*Alberta, Law Enforcement Review Board*

## Administrative Fairness Guidelines: The Role of the Alberta Ombudsman

Joe Loran  
*Office of the Alberta Ombudsman*

## Ruling on Objections

Gregory Sim  
*Field Law LLP*

## Rules of Evidence for Administrative Hearings

Brad Gilmour  
*Bennett Jones LLP*

## Dealing with Unrepresented Litigants

Susan Hughson, Q.C.  
*Ministry of Justice and Solicitor General*

## Conducting the Hearing

Brent Shervey  
*Boyden Global Executive Search*

## Balancing Tribunal Transparency & Individual Privacy

Elizabeth Aspinall  
*Jensen Shawa Solomon Duguid Hawkes LLP*

## Maintaining Control of Hearings

Alex G. MacWilliam  
*Dentons Canada LLP*

## Workshop: Tribunal Independence

Brian R. Leonard  
*Fraser Milner Casgrain LLP*

## Rules of Evidence for Administrative Hearings

Patti Latimer  
*Stockwoods LLP*

## Consistency in Tribunal Decision-Making

Bryan Finlay, Q.C.  
*WeirFoulds LLP*

## Procedural Fairness in Administrative Proceedings

Usman M. Sheikh  
*Ontario Securities Commission*

## Workshop: Managing Hearings

Diane Smith  
*Office of the Information and Privacy Commissioner of Ontario*

## Maintaining Control of Hearings

Richard Feldman  
*Financial Services Commission of Ontario*

## Update: Judicial Review of Tribunal Decisions

Patrice Band  
*Ontario Review Board*

## Ensuring Adequacy of Reasons in Your Decisions

Paul B. Sommerville  
*Toronto Hydro Corporation*

## Pre-Hearing Conferences

Cynthia Chaplin  
*Ontario Energy Board*

## Legal Framework Governing Administrative Hearings: Procedural Fairness

Mark J. Freiman  
*Lerners LLP*

**Registration:** To reserve your place, call Federated Press toll-free at 1-800-363-0722. In Toronto, call (416) 665-6868 or fax to (416) 665-7733. Then mail your payment along with the registration form. Places are limited. Your reservation will be confirmed before the course.

**Location:** Calgary Marriott Hotel, 110 9th Avenue, SE, Calgary, AB, T2G 5A6

**Conditions:** Registration covers attendance for one person, the supplementary course material as described in this document, lunch on both days, morning coffee on both days and refreshments during all breaks. The proceedings of the course will be captured on audio or video.

**Time:** This course is a two-day event. Registration begins at 8:00 a.m. The morning sessions start promptly at 9:00. The second day ends at 5:00 p.m.

**Cancellation:** Please note that non-attendance at the course does not entitle the registrant to a refund. In the event that a registrant becomes unable to attend following the deadline for cancellation, a substitute attendee may be delegated. Please notify Federated Press of any changes as soon as possible. Federated Press assumes no liability for changes in program content or speakers. A full refund of the attendance fee less 15% administration fee will be provided upon cancellation in writing received prior to April 21, 2015. No refunds will be issued after this date.

**Discounts:** Federated Press has special team discounts. Groups of 3 or more from the same organization receive 15%. For larger groups please call.

Payment must be received prior to April 28, 2015

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## TO REGISTER FOR 2ND ADJUDICATION IN ALBERTA

Name \_\_\_\_\_  
Title \_\_\_\_\_ Department \_\_\_\_\_  
Approving Manager Name \_\_\_\_\_  
Approving Manager Title \_\_\_\_\_  
Organization \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_  
Telephone \_\_\_\_\_ Fax \_\_\_\_\_ e-mail \_\_\_\_\_  
Please bill my credit card:  AMEX  VISA  Mastercard  
# \_\_\_\_\_ Expiration date: \_\_\_\_ / \_\_\_\_  
Signature : \_\_\_\_\_  
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## REGISTRATION COSTS

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