The Osgoode Certificate in Fundamentals of Aboriginal Law

Designed for those who need a working knowledge of the current and evolving Canadian framework

February 14 - April 12, 2017  |   5 Days over 8 Weeks    |   Toronto, Canada
Why You Should Attend

Osogood’s Certificate in Fundamentals of Aboriginal Law was created to help you understand this complex and vitally important body of law. It is a short, deep dive into the knowledge and content needed to be able to work more effectively when dealing with Aboriginal law issues.

A truly outstanding faculty of practicing lawyers and academics drawn from across the country will concentrate on the core aspects of Aboriginal law, focusing not just on the law itself, but also those practical considerations that are key to understanding the rapidly changing legal environment.

The aim of the program is to give you a practical understanding of Aboriginal rights and title, the constitutional framework, reserve lands and developments on reserve, treaty interpretation, modern treaties and consultation and accommodation. The certificate wraps up with an interactive panel discussion on the Supreme Court of Canada’s upcoming trilogy on the duty to consult and accommodate.

Throughout the program there will be ample opportunity for questions, discussion and debate.

Topics include:

- The historic narrative and constitutional framework
- An overview of the case law and key legal concepts from the last 40 years
- Understanding historic treaties – the context, perspectives and contemporary realities
- The Indian Act: key issues for practitioners and policy makers
- Section 35 - understanding its purpose, framework and emerging issues
- Tsilhqot’in and the implications for Canada, the provinces and Aboriginal peoples
- Understanding modern day treaties using case studies and a Canada-wide comparative analysis, including First Nation, Inuit and Métis perspectives
- Addressing overlapping territories, private lands, submerged land and waterways
- The duty to consult and accommodate – its origins, recent case law developments and current trends
- Consultation approaches and policies across Canada, including current and developing practices in resource development, impact benefit agreements, participation agreements, cooperation agreements and revenue sharing agreements and policies
- The Crown, Proponent and Aboriginal perspectives on the duty to consult and accommodate

Who Should Attend

- Lawyers practicing in the areas of Aboriginal law, natural resources, environmental and Constitutional law
- In-House Counsel, particularly those working in the energy, resource and infrastructure development sectors
- Aboriginal leaders, councillors and advisors
- Government lawyers/officials – federal, provincial and municipal sectors
- Negotiators and mediators for industry, government and Aboriginal communities
THE OSGOODE CERTIFICATE IN FUNDAMENTALS OF ABORIGINAL LAW

The Osgoode Certificate in Fundamentals of Aboriginal Law was specifically designed by an expert faculty drawn from across Canada. It will serve as an essential program in which participants will develop a comprehensive knowledge of the fundamental issues relating to Aboriginal law, expand their networks, and tap into a deep reservoir of practical, relevant information necessary to effectively work in this field or handle Aboriginal law issues as part of their work.

THE CURRICULUM

DAY 1  February 14, 2017, 9:00 a.m. – 4:45 p.m.

Understanding the Historic Narrative and Constitutional Framework

Overview of the Historic Narrative
• The pre-existence of Aboriginal peoples and the assertion of sovereignty
• Canada’s creation, expansion and settlement
• Treaty making with Aboriginal peoples (pre and post-Confederation)
• The ongoing national project of treaty making and reconciliation with Aboriginal peoples

Understanding the Constitutional Framework
• The Royal Proclamation, 1763
• The Division of Powers and Section 91(24) of the Constitution Act, 1867
• The 1870 Order, the Manitoba Act, 1870, the Natural Resources Transfer Agreements and other constitutional instruments
• The Constitution Act, 1982
• The role of International Norms and Principles and the United Nations Declaration on the Rights of Indigenous Peoples

An Overview of the Case Law and Key Legal Concepts from the Last 40 Years
• Understanding Aboriginal Title, Aboriginal and Treaty Rights, the Division of Powers, Inter-jurisdictional Immunity, the Honour of the Crown and its Related Duties (i.e., Fiduciary Duty, Treaty Interpretation and Implementation, the Duty to Consult and Accommodate) and Reconciliation through the evolution of the Supreme Court of Canada’s jurisprudence (Calder, Guerin, Vanderpeet, Powley, Haida, Manitoba Métis Federation, Tsilhqot’in, Keewatin and everything in between)

Faculty
Jean Teillet, Pape Salter Teillet LLP, Vancouver
Gwynneth C. D. Jones, Independent Historian, Vancouver
Andrew Lokan, Paliare Roland Rosenberg Rothstein LLP, Toronto
Thomas Isaac, Cassels Brock & Blackwell LLP, Vancouver

DAY 2  February 23, 2017, 9:00 a.m. – 5:00 p.m.

The Historic Treaties, Treaty Rights and the Indian Act
• The Historic Treaties: Context, Perspectives and Contemporary Realities
• The Relationship between the Historic Treaties and the Role of the Crown, the Division of Powers, Treaty Rights and the Indian Act
• An Overview of the History and Development of the Indian Act and its Ongoing Evolution
• The Indian Act: Key Issues for Practitioners and Policy-Makers

This year’s panel will focus on the following topics:
- First Nation Land Management Act and related land codes, including templates and best practices
- Legal issues for business operations as well as taxation on-reserve
- Issues surrounding the negotiation of self-government and other agreements with Bands under the Indian Act
- ‘Status’ registration under the Indian Act, including the Descheneaux case and Canada’s response

Luncheon Keynote Speaker
Delivering Access to Justice in Aboriginal Communities
Kimberly R. Murray, Ontario Assistant Deputy Attorney General, Aboriginal Justice Division, Ministry of the Attorney General

Faculty
Aimée Craft, Assistant Professor, Faculty of Law, University of Manitoba
Shin Imai, Associate Professor, Osgoode Hall Law School, York University
John Gailus, Devlin Gailus Westaway, Victoria
Maxime Faille, Gowling Lafleur Henderson LLP, Vancouver
Nancy Kleer, Olthuis, Kleer, Townshend LLP, Toronto
David Schulze, Dionne Schulze, Montreal

DAY 3  March 8, 2017, 9:00 a.m. – 4:45 p.m.

The Aboriginal Rights Framework in Section 35
• Section 35 Aboriginal Rights Framework
• The history, development and evolution of s.35 of the Constitution Act, 1982
• Understanding how the s.35 case law “fits” together from a litigation and negotiation perspective, including the legal tests and “best practices” for litigating s.35 rights and claims
• Ethical and professionalism issues in advancing s.35 litigation
• What are the trends and emerging s.35 issues for Practitioners and Policy-Makers

Register online today at www.osgoodepd.ca/aboriginallaw
Day 4
March 30, 2017, 9:00 a.m. – 4:30 p.m.

The Modern Day Treaties
- An Overview of the History and Development of the Modern Day Treaties: Current Policies, Opportunities and Challenges
- Understanding the Modern Day Treaties through Case Studies and a Comparative Analysis Across Canada, including First Nation, Inuit and Métis perspectives
- Key Emerging Issues in Modern Day Treaty Implementation and the Road Ahead
  - Participation in environmental assessments and land and water management issues
  - Funding treaty implementation and self-government (Financial Transfer Agreements)
  - Business and wealth creation
  - Case law (existing and emerging) on interpreting and implementing Modern Day Treaties, including the Yukon Peel Watershed case before the Supreme Court of Canada

Luncheon Keynote Speaker
Reconciliation with the Métis: Recent Developments and the Road Ahead
Jason T. Madden, Pape Salter Teillet LLP, Toronto

Faculty
Joe Wild, Senior Assistant Deputy Minister, Treaties and Aboriginal Government, Indigenous and Northern Affairs Canada
The Osgoode Certificate in Fundamentals of Aboriginal Law draws on the expertise and experience of leading Aboriginal Law lawyers and experts, including:

Merle C. Alexander, Gowling WLG, Vancouver  
Keith B. Bergner, Lawson Lundell LLP, Vancouver  
Aimée Craft, Assistant Professor, Faculty of Law, University of Manitoba  
Maxime Fallie, Gowling Lafleur Henderson LLP, Vancouver  
Nuri G. Frame, Pape Salter Teillet LLP, Toronto  
John Gailus, Devlin Gailus Westaway, Victoria  
Sandra A. Gogal, Miller Thomson LLP, Toronto  
Nader Hasan, Stockwoods LLP Barristers, Toronto  
Shin Imai, Associate Professor, Osgoode Hall Law School, York University  
Larry Innes, Olthuis, Kleer, Townshend LLP, Vancouver  
Thomas Isaac, Cassels Brock & Blackwell LLP, Vancouver  
Robert Janes, JFK Law Corporation, Victoria  
Gwynneth C. D. Jones, Independent Historian, Vancouver  
Nancy Kleer, Olthuis, Kleer, Townshend LLP, Toronto  
David de Launay, Deputy Minister, Ontario Ministry of Northern Development and Mines  
Andrew Lokan, Paliare Roland Rosenberg Rothstein LLP, Toronto  
Allan MacDonald, Director General Implementation Branch, Indigenous and Northern Affairs Canada

Jason T. Madden, Pape Salter Teillet LLP, Toronto  
P. Mitch McAdam, Q.C., Director, Constitutional Law Branch, Saskatchewan Justice, Regina  
Matthew Mehaffey, Mehaffey Consulting Inc., Vancouver  
Kimberly R. Murray, Ontario Assistant Deputy Attorney General, Aboriginal Justice Division, Ministry of the Attorney General  
Robert J. Potts, Blaney McMurtry LLP, Toronto  
David M. Robbins, Woodward & Company, Victoria  
Scott Robertson, Nahwegahbow, Corbiere  
David Schulze, Dionne Schulze, Montreal  
Jean Teillet, Pape Salter Teillet LLP, Vancouver  
Joe Wild, Senior Assistant Deputy Minister, Treaties and Aboriginal Government, Indigenous and Northern Affairs Canada

“*The range of topics and breadth of speakers was very impressive. Furthermore the contacts I made via networking with students and faculty were invaluable.*”
Megan E. Peck, Senior Counsel, Assessment Review Board

Osgoode Hall Law School's Osgoode Professional Development offers both credit and non-credit programming to meet the life-long learning needs of lawyers and other professionals who need legal information. Osgoode Hall Law School is one of the world’s pre-eminent law schools. Osgoode Professional Development embodies the law school’s commitment to meeting the educational needs of the broader community and has offered many continuing legal education programs for health care, law enforcement and other professionals.
Learn from a who’s who of more than 25 experts in the field

THE OSGOODE CERTIFICATE IN FUNDAMENTALS OF ABORIGINAL LAW - WINTER 2017

I will attend: ☐ On site ☐ Via webcast (single viewer)

Name: __________________________ Title: __________________________

Firm/Company: __________________ Practice Area: __________________

Address: _______________________

City: ___________________ Province: ___________ Postal Code: ___________

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Fee Per Delegate

$3,495 plus HST

Fees include attendance, program materials, continental breakfast, lunch and refreshments for each of the 5 days of the program. The price does not include accommodations. Please inquire about group discounts and financial assistance.

Payment Options — Payment must be made prior to the program

☐ Cheque enclosed (payable to York University — GST# R119306736)
☐ Bill my credit card: ☐ VISA ☐ Mastercard

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Program Changes

We will make every effort to present the certificate program as advertised, but it may be necessary to change the dates, location, speakers or content with little or no notice. In the event of program cancellation, York University and Osgoode Hall Law School’s liability is limited to reimbursement of paid fees.

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

Eligible CPD/MCLE hours:

LSUC (ON): 33.25 CPD Hours (3.25 Professionalism; 30.0 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.

For Further Program–Related Information

Please contact: Jessica Foster, Program Lawyer at 416.673.4673 or email jfoster@osgoode.yorku.ca

Certificate of Program Completion

You will receive a certificate upon completion of The Osgoode Certificate in Fundamentals of Aboriginal Law. Participants must attend all program modules and pass a take-home assessment to receive a certificate.

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

4 Convenient Ways to Register

1. MAIL your registration form to:
   Osgoode Professional Development
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2. ONLINE at www.osgoodepd.ca/aboriginallaw

3. FAX your registration to 416.597.9736

4. CALL US at 416.597.9724