



THE MANITOBA BAR ASSOCIATION
A Branch of the Canadian Bar Association

L'ASSOCIATION DU BARREAU DU MANITOBA
Une Division de L'Association du Barreau canadien

MBA 2022 Mid-Winter Conference Online Via Zoom Webinar

Thursday, January 20 to Friday, January 21, 2022

Visit our website (<http://cba-mb.ca/>) for updated Mid-Winter information

Registration for this Conference is open online at www.cbapd.org/MB_MW2022 for CBA members. Members will need their email and CBA password to login. Non-members and members who are GST exempt please contact the MBA office at admin@cba-mb.ca to register.

Full attendance at the 2022 Mid-Winter Conference can be applied towards your entire 12 hour yearly mandatory Law Society of Manitoba's continuing professional development requirement.

2022 MBA Mid-Winter Conference Charity

In lieu of providing speaker gifts to presenters and moderators, a donation will be made to:



Candace House is a first-of-its-kind organization providing refuge, safety, and comfort to victims, survivors, and families impacted by violent crime as they navigate the justice system and court proceedings. Learn more about Candace House and plans to expand space and services at www.candacehouse.ca.

THURSDAY

January 20, 2022

Online via Zoom Webinar

AM

9:00am – 11:30am

Morning Continuing Legal Professional Development Sessions

Family Law Year in Review

The MBA is pleased to have Toronto based lawyer, Martha McCarthy (Martha McCarthy & Company LLP) and Winnipeg's own Dean Kropp (Tapper Cuddy LLP) host a review of the most important family law cases from coast to coast. This session will cover emerging areas and issues in family law from the past year. This session is a must for everyone who practices family law.

The session is being presented by the MBA Family Law Section.

Speakers:

- Martha McCarthy, *Martha McCarthy & Company LLP (Toronto, ON)*
- Dean Kropp, *Tapper Cuddy LLP*

Moderator: - Jurgen Feldschmid, *Duboff Edwards Schachter Law Corporation*

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Issues of Sexual Violence Across the Law: A Trauma-Informed Lens

During their careers, practitioners of civil litigation, family law, labour and employment law, administrative law, criminal law and more are likely to encounter matters involving issues of sexual violence. Regardless of the area of law, these matters are often complex and require lawyers to navigate challenging questions of ethics, witness and client management, and emerging legal issues – all in the context of increasing recognition of the importance of a “do no harm” trauma-informed approach to practising law. Issues of general application across a myriad areas of law practice include ethics in cross-examining witnesses who have raised allegations of sexual violence, the use (and misuse) of non-disclosure agreements and confidentiality clauses, and understanding how trauma can affect your clients, witnesses, and you. This panel discussion will seek to advance your knowledge of the issues in this area and to grapple with the difficult questions that arise. This session will aim to build your foundation in the area of sexual violence legal issues, complementing specific practice-area sessions being held at the Mid-Winter. Trauma support counselling services will be available during this session.

The session is being presented by the MBA Women Lawyers' Forum Section.

Speakers:

- Carla Ball, *Nova Scotia Public Prosecutions Service*
- Dr. Elaine Brooks-Craig, *Professor, Schulich School of Law at Dalhousie (Halifax, NS)*
- Dr. Julie Macfarlane, *Professor, University of Windsor (Windsor, ON)*
- Helga Van Iderstine, *MLT Aikins LLP*

Moderator: - Joëlle Pastora Sala, *Public Interest Law Centre*

11:45am – 1:45pm – EPPM Session (available to everyone who registers)

Lawyers Strong: Engaging Lawyers and the Legal Profession to be Changemakers for Well-being

The correlation between the legal profession and lawyer distress can no longer be ignored. While we recognize that well-being is essential to the overall happiness, satisfaction and success of lawyers, the responsibility for achieving resilience and well-being seems to rest on the backs of each practitioner, especially law students and young

Mental Health Accommodations in the Workplace

Issues of mental health in the workplace can present particular challenges for all parties involved, which call for a considered and compassionate approach.

This session, which will include insights from a mental health professional, in addition to union and employer counsel, will address issues including approaching employees who may be dealing with a mental health issue in a respectful and appropriate way, the medical information required to support accommodation, how to best request such information, privacy considerations, challenges associated with “invisible” disabilities, developing return to work and accommodation plans, roles that may be played by different mental professionals (such as psychologists, EAP counsellors, psychiatrists), representational considerations for unions, and more.

This session is being presented by the MBA Labour & Employment Law Section.

Speakers:

- Kristine Barr, *CUPE*
- Shandra Czarnecki, *MLT Aikins LLP*
- Stephen Sutherland, *Program Director, Canadian Mental Health Association*

Moderators:

- Kristen Worbanski, *Myers LLP*
- Darcie Yale, *D'Arcy & Deacon LLP*

Advising Commercial Landlords and Tenants in Insolvency

Our panel will provide practical guidance and strategies to help lawyers advise commercial landlords with insolvent tenants, as well as tenants who are facing financial difficulties and considering restructuring options. This session will outline a commercial landlord's rights and limitations to distrain on a tenant's property, illegal distress and a landlord's priority to distrained goods over lenders with perfected security interests. The panel will discuss the applicable stays of proceedings and the ability of the respective court-officer to retain, assign or disclaim a lease in the event of a commercial tenant's bankruptcy, receivership or BIA proposal. Lastly, the panel will review how to negotiate and incorporate specific provisions into a commercial lease to maximize commercial landlords' security in the event of an insolvent tenant.

This session is being presented by the MBA Insolvency Law and Real Property Sections.

Speakers:

- Catherine Howden, *Pitblado LLP*
- Myong Lee, *Ronald S. Ade Law Corporation*
- Ross McFadyen, *Thompson Dorfman Sweatman LLP*

Moderator:

- Jason Bryk, *Pitblado LLP*
- Myles Davis, *WRMG Law LLP*

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10:15am: 15-minute health break

lawyers who statistically experience the greatest levels of stress and distress at this early stage in their careers.

The legal profession has begun to work to end the stigma attached to mental health and substance abuse disorders which inhibit help-seeking behaviours. We need to progress past the current culture that deals with these concerns only in crisis. While individual responses matter, the profession needs to create structural change to reduce the

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prevalence of these issues. Our overarching goal should be to shape a profession where all lawyers can thrive, and the humanity of all is honoured.

Join us for a presentation and discussion with Doron Gold, a speaker, psychotherapist and former practising lawyer, who has addressed these issues over his many years of working with lawyers in distress through the Ontario Lawyers' Assistance Program and through Homewood Health. The focus of this session is to identify the factors that contribute to the environment many find themselves – which is to not seek the

help they need before stress leads to distress and distress leads to crisis. We will examine concrete actions that we all can take to make the profession a safer and kinder environment for all lawyers to thrive.

Speaker: - Doron Gold, *Homewood Health (Toronto, ON)*
Moderator: - Maria Mitousis, *Mitousis Lemieux Howard Law Corporation*

This session is presented by



PM

2:00pm – 4:30pm

Afternoon Continuing Legal Professional Development Sessions

Domestic Violence and Family Law

If you practice family law, then you have had files where family violence has been present. Learn from Court of Queen's Bench Justice Lore Mirwaldt what tools are available in our legislation to address family violence issues when they arise in your files, and how the law is evolving. Trauma support counselling services will be available during this session.

The session is being presented by the MBA Family Law Section.

Speaker: - The Honourable Madam Justice Lore Mirwaldt, *Court of Queen's Bench of Manitoba*

Moderator: - Reannah J. Hocken, *Deeley Fabbri Sellen LLP*

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Manitoba Law Reform Commission: Current Areas of Law Reform

Representatives from the Manitoba Law Reform Commission (MLRC) will discuss current law reform projects. In particular, this session will cover: (1) the MLRC's presumed consent organ donation project; (2) elder abuse and neglect in Manitoba; and (3) an introduction to the MLRC's newest project examining the state of administrative law, with a focus on judicial review.

Presenters will describe the current law in Manitoba and possible recommendations to improve and modernize the law. Presenters will also provide updates on other MLRC projects and welcome ideas from attendees on topics suitable for future law reform projects.

The session is being presented by the MBA Legal Research Section.

Speakers: - Stefanie Goldberg, *Legal Counsel, Manitoba Law Reform Commission*
- Elizabeth McCandless, *Legal Counsel, Manitoba Law Reform Commission*
- Cameron Harvey, Q.C., *Manitoba Law Reform Commission*

Moderator: - Kristal Bayes-McDonald, *Director/Legal Counsel, Manitoba Law Reform Commission*

The #LandBack Movement: What is It, and What Does It Mean for the Legal Profession and Legal Practitioners?

While the words "Land Back" seem straight forward, this phrase actually encompasses a complex and intergenerational movement regarding sovereignty, jurisdiction, systems of governance, decision-making, stewardship, rights, responsibilities and relationships and confronting colonialism at its root. Within this context we ask the questions: What is the Land Back Movement? And, what does it mean for the legal profession and legal practitioners? In this panel discussion, the esteemed panelists will discuss these questions and more, and provide lawyers in various practice areas an opportunity to consider this Movement in light of their practice(s).

Please note this session will not be recorded. This session is being presented by the MBA Aboriginal Law Section.

Speakers: - Aimée Craft, *Associate Professor at the Faculty of Common law, University of Ottawa (Ottawa, ON)*
- Bruce McIvor, *First Peoples Law*
- Danielle Morrison, *Cochrane Saxberg LLP*

Moderator: - Jared Wheeler, *Holloway Thliveris LLP*

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Textbooks to Technology - The Impact of Knowledge Aggregation, Search Functions, and A.I. on Business Law

As A.I. and other knowledge aggregation technologies begin to become more and more prevalent in the business world, its interactions with law also increase. Not only does this create different issues that business law practitioners will need to advise their clients on, but also issues for lawyers to consider with regard to how their practices and the legal community at large may use these technologies, and the various training, ethical, and regulatory obligations that may emerge for lawyers in regard to this. In this presentation, our speakers will discuss four main topics, being (1) How A.I. and similar technologies can be used by law firms; (2) the training and ethical obligations that may emerge for lawyers in regard to this; (3) the regulatory and legal obligations that may emerge and crystallize in the future in regard to use of these technologies; and (4) how this potential legal and regulatory framework may affect a variety of business actors as well, for lawyers to consider in regard to advising businesses. A short Q&A session will follow the presentation as time permits.

This session is being presented by the MBA Business Law and Technology & Intellectual Property Law Sections.

Speakers: - Nye Thomas, *Executive Director, Law Commission of Ontario (Toronto, ON)*
- Adam Herstein, *Pitblado LLP*
- Michael Legary, *Executive Chairman, Powerland Computers Ltd.*

Moderator: - Silvia de Sousa, *Thompson Dorfman Sweatman LLP*

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3:15pm: 15-minute health break

4:30pm – 6:30pm – Bench & Bar Reception - Fairmont Winnipeg

Due to increased public health concerns surrounding the COVID-19 pandemic. The in-person Bench and Bar Reception will be cancelled.

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9:00am - 11:30am

Morning Continuing Legal Professional Development Sessions

Advising the Executor

This session will focus on issues that may arise for an executor in administering estates. Issues facing both solicitors and litigators who deal with estates will be canvassed, including a basic review of the role of the lawyer in acting for an executor, followed by a summary of steps of administration with attention to the issues of lapse, abatement and ademption, beneficiary designations, joint property, residency, restrictions on testamentary freedom due to contractual obligations on an estate and applicable legislation, discretion in dealing with property, advancing or settling claims, the executor's year, advice and direction from the court in estate matters, executor's powers and more.

This session is being presented by the MBA Wills, Estates & Trusts Section.

Speakers: - Caroline Kiva, *Thompson Dorfman Sweatman LLP*
- Ken Mandzuik, *Tradition Law LLP*
- K. Eleanor Wiebe, Q.C., *Fillmore Riley LLP*

Moderator: - Solange Buissé, *Taylor McCaffrey LLP*

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Regulating Public Health

The COVID-19 pandemic has brought the government's public health powers into sharp focus. In this session, experts will explain the government's ability to regulate public health and people's conduct during a pandemic. Dr. Brent Roussin, Manitoba's Chief Provincial Public Health Officer, will share his unique perspective on this topic. Dr. Leah West (Carleton University) will provide an overview of the law of emergencies in Canada, with a focus on public health matters, and the constitutional contours of federal powers in this area. Michael Conner (Manitoba Justice) will discuss the applicable Manitoba legislation and the various COVID-related orders that flowed out of the delegated authority under those statutes. He will also discuss the *Charter* and ongoing Manitoba litigation in this area.

This session is being presented by the MBA Constitutional/Human Rights Law and Public Sector Lawyers' Sections.

Speakers: - Dr. Brent Roussin, *Manitoba's Chief Provincial Public Health Officer*
- Dr. Leah West, *Carleton University (Ottawa, ON)*
- Michael Conner, *Manitoba Justice - Legal Services Branch, Constitutional Law Section*

Moderator: - Bryton M.P. Moen, *Manitoba Justice - Prosecutions Service Division*

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Taxation of Damages and Settlement Amounts

Settlements and damage awards are often negotiated without regard to how such amounts may be subject to tax. This panel focusses on how both income tax and GST may apply to various types of settlements and damage awards. The speakers include a litigator and a tax practitioner, who will provide technical and practical tips on how to structure awards around potential taxation, from the perspective of both the payor and the recipient. This session will be of particular interest to practitioners of litigation, labour and employment law.

This session is being presented by the MBA Civil Litigation and Taxation Law Sections.

Speakers: - Leilani Kagan, *Thompson Dorfman Sweatman LLP*
- Michael Weinstein, *MLT Aikins LLP*

Moderator: - Kalyn Bomback, *City of Winnipeg Legal Services*

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Sexual Assault Cases - The Pitfalls, Perils and How to Avoid Them

The law around sexual assault is continually evolving, not only due to case law but also due to legislative amendments from Parliament. As such, navigating this complex area of the law has become increasingly more difficult to defend and prosecute. This seminar will be of interest to anyone handling cases of this nature and will cover areas of consent and honest belief in consent, sections 276, 278 and dealing with victims and witnesses. For the first part of this session, John Williams will present on consent and honest belief in consent. The second half of the session will feature a panel with a Provincial Court Judge (TBD), Renée Lagimodière (Appeal Unit) and Stacey Solider (Independent Counsel) who will speak on a variety of topics from their varying perspectives under this umbrella. Trauma support counselling services will be available during this session.

This session is being presented by the MBA Criminal Justice Section.

Speakers: - Associate Chief Judge Tracey Lord, *Provincial Court of Manitoba*
- John Williams, *Gerrand Rath Johnson LLP (Regina, SK)*
- Renée Lagimodière, *Manitoba Justice Prosecutions*
- Wendy Martin White, *Martin White & Associates*
- Stacey Soldier, *Cochrane Saxberg LLP*

Moderator: - Sarah Inness, *Campbell Gunn Inness Seib*

10:15am: 15-minute health break

11:45am - 1:45pm - Awards Ceremony

Featuring presentations of the 2022 MBA Distinguished Service Award to Douglas Finkbeiner, Q.C., the 2022 *Pro Bono* Award to Robynne Kazina, Rhoni Mackenzie and Kelby Loeppky of Taylor McCaffrey LLP and the 2021 MBA Recognition Awards.

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PM

2:00pm – 4:30pm

Afternoon Continuing Legal Professional Development Sessions

Current Issues in Tax Law

This panel discussion, which is geared towards non-tax specialists interested in gaining a deeper understanding of tax issues affecting their clients and their practices, will cover a variety of tax hot topics, tips and traps, and other items of note. The discussion will focus on applying the material covered in practice and will generally not be technical in nature. This session will be of particular interest for general practitioners, commercial lawyers, and estate planners.

This session is being presented by the MBA Taxation Law Section.

Speakers: - Johanna Caithness, *Fillmore Riley LLP*
- Paul Grower, *Fillmore Riley LLP*

Moderator: - David Silver, *Department of Justice Canada*

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Children in the Court Process: From Disclosure to Trial

The appropriate involvement of children and children's evidence in legal proceedings raises many complex issues for counsel. Child development, memory, interviewing, and preparatory and in-court skills when examining child witnesses will be covered by two panels of exciting speakers. These panels will include child psychologists, a child therapist and assessor, a Crown Attorney, defence counsel, and a Provincial Court Judge. This session will be of particular relevance to practitioners of criminal law, child protection, and family law, and should not be missed!

This session is being presented by the MBA Child & Youth Law Section.

Speakers: - The Honourable Madam Judge Cynthia Devine, *Provincial Court of Manitoba*
- Shannon Benevides, *Manitoba Justice - Prosecutions Service Division*
- Sarah Inness, *Campbell Gunn Inness*
- Verna Sullivan, *Social Worker*
- Dr. Jeffrey Waldman, *Psychiatrist*

Moderators: - Alex Gilroy, *Gray & Company*
- Wendy Martin White, *Martin White & Associates*

The Balancing Act in the First Five Years of Practice

This session is a "must attend" for young lawyers! Panelists will share their experiences with balancing the expectations of clients, senior lawyers, and partners – all while working on building their own practice and maintaining a personal life. Discussions will include general file management, communication skills, and how to set boundaries, plus panelists will offer their "top tips" on how to handle common scenarios faced by junior lawyers. Attendees can expect an open and honest discussion geared to help young lawyers to successfully develop their practice.

This session is being presented by the MBA Young Lawyers' Section.

Speakers: - Adriel Agpalza, *Pitblado LLP*
- Travis DeLaronde, *Cochrane Saxberg LLP*
- Desiree Katz, *MLT Aikins LLP*
- Nihar Kaushal, *Levene Tadman Golub Law Corporation*

Moderator: - Mercedes Ayala, *Mitousis Lemieux Howard Law*

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Impact of the Dismiss for Delay Amendments on the Profession

In January of 2018, amendments were made to the Court of Queen's Bench Rules with respect to when a matter can be dismissed for delay, with amendments with respect to the "Long Delay" rule coming into force on January 1, 2019. This presentation will provide an overview of cases that have considered the new delay rules, and also provide commentary on the impact the new rules have had and will continue to have on the profession for both plaintiff and defendant counsel.

This session is being presented by the MBA Civil Litigation Section.

Speakers: - Mira Bokhaut, *MLT Aikins LLP*
- Bill Gange, *Gange Collins*

Moderator: - Kalyn Bomback, *City of Winnipeg Legal Services*

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3:15pm: 15-minute health break

Thank you to the 2022 Mid-Winter Sponsors



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REGISTRATION

MBA 2022 Mid-Winter Conference

Registration Costs

Please read carefully as registration information has changed; the more CPD sessions you attend, the greater the cost saving.

Consider purchasing an add-on CBA membership package to reduce your cost to attend the MBA Mid-Winter. The Portfolio add on package will give you a \$250.00 credit that can be used when you register for the MBA Mid-Winter and other CBA/MBA programs and services for only \$200.00. The Portfolio Plus add on package will give you a \$500.00 credit that can be used when you register for the MBA Mid-Winter and other CBA/MBA programs and services for only \$400.00. More information about these add-on membership packages can be found online at <http://www.cbamembership.org/>.

Early Bird <i>(to Dec. 31, 2021)</i> <i>This discounted rate is only available to CBA members.</i>	CBA Member <i>(After January 1, 2022)</i>	Non-Member <i>(not eligible for early bird pricing)</i>	Student/Young Lawyer*
One CPD Session Rate (includes Thursday EPPM Session) \$120.00	\$150.00	\$250.00	\$100.00
Two CPD Sessions Rate (includes Thursday EPPM Session) \$220.00	\$280.00	\$500.00	\$180.00
Three CPD Sessions Rate (includes Thursday EPPM Session) \$335.00	\$430.00	\$750.00	\$275.00
Four CPD Sessions Rate (includes Thursday EPPM Session) \$420.00	\$500.00	\$1000.00	\$350.00

You will receive all 12 hours of LSM mandatory annual CPD requirement (including 2 hours of Ethics, Professionalism and Practice Management).

No discount will be provided to the session rate if you are not able to attend the Thursday EPPM session.

Most sessions will be recorded and made available to registered participants of that session after the conference.

Prices do not include GST #R126095728

* Young Lawyer rate is available to CBA members practising 5 years or less

Registration deadline - Thursday, January 13, 2022

Refunds: Cancellations will be accepted by email (admin@cba-mb.ca) until 4:00pm on January 13, 2022, subject to a 15% administrative charge.

NO REFUNDS will be made if notice is received after 4:00pm on January 13, 2022.

Your 2022 Mid-Winter Organizing Committee

Co-Chairpersons:

Jennifer Litchfield, *The Winnipeg Foundation*
David Silver, *Department of Justice Canada*

Committee Members:

Aдриел Agpalza, *Pitblado LLP*
Danielle Barchyn, *MLT Aikins LLP*
Krista Clendenning, *Tradition Law LLP*
Anthony Foderaro, *Fillmore Riley LLP*
Tanya Keller, *Sternat Manaique Law Corporation*
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