

ONTARIO'S CONSTRUCTION ACT – Practical Considerations for Managing Disputes and Key Risks in 2022 and Beyond

“Very good. How daunting this will all be for an industry better at building things than at process [and] costs will go up to implement all of this.”

Brian Swartz, Executive Legal Advisor, Aecon Group Inc.

The number of disputes is rising. Virtual proceedings and pandemic impacts continue.

Get up to date on how to better manage escalating risks and your evolving obligations.

Designed for the construction industry and their legal advisors, get equipped with the latest **crucial legal and practice updates** from multi-disciplinary experts and decision-makers.

- Where are things at in 2022? How has the *Act* helped, and how is industry actually dealing with gaps, conflicts and uncertainty?
- How to effectively use contractual language and field tactics for managing your evolving legal obligations and mitigating risks due to COVID-19
- Practical considerations for navigating various dispute processes under the *Act* – with distinctions based on type of proceeding (including virtual): mediation, arbitration, litigation, adjudication and the interface with liens

PLUS, don't miss the live mock adjudication featuring an expert demonstration, insights and top tips for navigating key challenges at each stage of the adjudication process – from the perspective of the adjudicator and the parties to the adjudication.

PROGRAM CHAIRS

Glenn Ackerley
Partner, WeirFoulds LLP

Jason Annibale
Partner, McMillan LLP

PROGRAM ADVISOR

Geza Banfai
Counsel, McMillan LLP

REGISTRATION OPTIONS

April 22, 2022:
Online, Live
9:00 a.m. – 5:00 p.m. ET

May 30, 2022:
Online Replay
9:00 a.m. – 5:00 p.m. ET

Can't make the date?
Registration includes 120-day unlimited, online access to the recorded program.

Register today at:

[osgoodepd.ca/
construction-act](https://osgoodepd.ca/construction-act)



Ontario's *Construction Act* – Practical Considerations for Managing Disputes and Key Risks in 2022 and Beyond

This **unique and intensive** one-day program will **focus on the practical steps** that owners, general and major trade contractors, subcontractors and suppliers need to take in 2022 and beyond to effectively **manage their evolving legal risks** and avoid costly missteps.

This OsgoodePD program will give you the rare opportunity to engage with an exceptional faculty of construction lawyers, industry leaders and decision-makers. You will learn critical information and obtain best practices and proven strategies you need to effectively **preserve rights, reduce risk, satisfy your evolving obligations**, and uphold the integrity of the objectives of timely payment of accounts, dispute avoidance, and cost-effective claims management.

Industry experts will discuss:

- How is industry managing the most pressing impacts, including as a result of COVID-19?
- What is the latest on the rights and obligations linked to working on a project and when are they triggered?
- Expert insights for how to grasp which version of the *Act* applies – with distinctions for new vs. continuing projects
- Practical considerations and tools for effectively managing contracting and contract administration
- Key developments and distinctions for matters that end up in court or arbitration
- Crucial updates and top takeaways arising from the adjudication process
- Proven techniques for overcoming common pitfalls under the various dispute resolution processes under the *Act* and tips for making each process work for you

Who Should Attend

- Construction and in-house lawyers
- Litigation and real estate lawyers
- Municipal, government and procurement professionals
- Owners and developers
- Builders and construction professionals
- Project managers
- Contract managers
- Architects
- Engineers
- Business and finance professionals
- Insurance professionals
- Consultants

Agenda

9:00 a.m.

Chairs' Welcome and Introductory Remarks

9:15 a.m.

Key Industry Updates, Impacts and Tips for Owners, General Contractors and Subcontractors/Trades

Moderators:

Glenn Ackerley

Partner, WeirFoulds LLP

Jason Annibale

Partner, McMillan LLP

Speakers:

Tariq Adi

CEO, Adi Development Group

Giovanni Cautillo

President, Ontario General Contractors Association (OGCA)

Wendy Law

Deputy City Manager, Administrative Services, and City Solicitor, City of Vaughan

Sandra Skivsky

Chair, National Trade Contractors Coalition of Canada (NTCCC), and Director of Marketing & Business Development, Canada Masonry Centre

In this opening session, industry leaders will summarize important industry updates, impacts and practical challenges involving the implementation of the *Act* and ongoing COVID-19 risks, as well as share their top tips and tricks as to how they're dealing with them.

- Crucial updates on key industry impacts, risks and opportunities to date
 - What are the key impacts by sector?
 - What risks are they facing/seeing?
 - How has the pandemic changed things?
- Key practical implications of ongoing COVID-19 impacts and how the *Act* has helped or not
 - Money – Has cash-flow improved?
 - Dispute Resolution – Who has gone through adjudication? Have lien period changes helped? What is the latest on reprisal clauses?

- Tips and best practices for each group based on “lessons learned” so far
- Key steps and strategies taken to deal with COVID-19 and *Act* issues/impacts, including top tips, tricks and takeaways

10:45 a.m.
Health Break

11:00 a.m.

Legal Risk and Contract Management Updates and Best Practices

Ted Betts

Partner, Gowling WLG LLP

Annik Forristal

Partner, McMillan LLP

Ethan McCarthy

Associate, Osler, Hoskin & Harcourt LLP

- How the *Act* and ongoing pandemic impacts affects legal risk, including: “Proper Invoice”, payment obligations, adjudication, liens involving a Municipality, contractor’s bonding obligations on public contracts, publications of CSPs and other statutory notices
- Contract drafting implications and considerations, including:
 - Requirements for a “Proper Invoice”
 - Invoice receipt and vetting process
 - General lien – expiry on a lot-by-lot basis
- Crucial contract management considerations, including bridging legal gaps, holdbacks, Notice of Termination of Contract, limitation involving “no adjudication once the contract or subcontract is complete”, scope of “one matter per adjudication” limitation, and the importance of the Notice of Adjudication and the choice of Adjudicator
- Best practices for handling monies on a project effectively – including the new requirements for accounting, tracking, and creating a separate trust account
- Top insights and tips based on lessons learned to date

12:30 p.m.
Lunch Break

1:15 p.m.

Navigating Various Dispute Processes under the *Act* for 2022

Jason Annibale

Partner, McMillan LLP

Laura Brazil

Partner, McMillan LLP

Edward (Ted) Dreyer, Certified Adjudicator

Ontario Dispute Adjudication for Construction Contracts (ODACC), and Partner, Madorin, Snyder LLP

Sharon Vogel, FCI Arb

Partner, Singleton Urquhart Reynolds Vogel LLP

Navigating dispute resolution processes under the *Act* continues to present challenges that are made more complex by the ongoing impacts of COVID-19. It is imperative that you know practical strategies and top tips for making each dispute resolution proceeding under the *Act* work for you in the current climate. You will examine top tips, tricks and takeaways to help you make each proceeding work for you.

- Special focus on each of the dispute resolution processes
 - Mediation, Arbitration, Litigation, Adjudication
 - Interface with liens and other remedies
 - How does each system work and what are the mechanics? What’s new/changed?
 - Strategies to make each process work for you
 - Key areas that get neglected and how to handle them
- Distinctions for matters that end up in arbitration and the courts
- Procedural issues and how to solve them – including process changes and virtual proceedings
- How to commence an action or claim?
- Considerations for virtual proceedings, with distinctions based on type of proceeding
- Strategies and “do’s and don’ts” for navigating disputes based on lessons learned

2:45 p.m.
Health Break

3:00 p.m.

Live Mock Adjudication: Practical Considerations for Navigating the Adjudication Process

Glenn Ackerley

Partner, WeirFoulds LLP

Matt Ainley, PQS, Certified Adjudicator

Ontario Dispute Adjudication for Construction Contracts (ODACC)

Dante Capannelli

Legal Counsel, EllisDon Corporation

Marcia Oliver, CS, QArb

Partner, Scott Petrie LLP

D. Ann Walters

Vice President, Legal Services, Infrastructure Ontario

You will have the opportunity to observe and interact with a live mock adjudication from the perspective of adjudicator and parties to the adjudication. The panel will examine various positions and provide guidance on the strategic use of evidence, language and other practical considerations when engaging in the adjudication regime. This demonstration and discussion will provide you with valuable sightlines into each stage of the adjudication process, along with tactics for dealing with the challenges you may face. You will observe the experts in action and get effective tips you can immediately use to better manage disputes under the *Act* for 2022 and beyond. Demonstration includes:

- Adjudication procedure
- Written submissions
- Decision
- Debrief, checklist and Q+A

5:00 p.m.
Program Concludes

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Vice President, Legal Services,
Infrastructure Ontario

Registration Details

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