

Effective Examinations: Things They Never Told Us

Date: Thursday, February 7, 2013 | 1:30 pm to 4:50 pm

Location: Westin Harbour Castle Conference Centre, 2 Harbour Square

Program Chairs: **Andrea Sanche**, Ricketts, Harris LLP
Barry Weintraub, Rueter Scargall Bennett LLP



2 Substantive Hours
1.5 Professionalism Hours

Note: New members may apply any program that contains a minimum of **0.5 Professionalism Hours** toward the annual CPD requirement.

In examinations, lawyers have to think on their feet and make difficult on-the-spot decisions that have implications for their entire case. Being prepared is essential. This program features experienced courtroom lawyers providing tips on how to prepare for examinations: what you should cover and what you shouldn't, how to deal with difficult witnesses and opposing counsel, and how to make the most of your 7 hours (or less). This program will provide practical guidance on how to maximize the effectiveness of your examinations and how to avoid mistakes that can undermine your case. Topics to be addressed include:

- How to prepare for examination-in-chief, cross-examination, and discovery
- Questions that must be asked
- Questions not to ask
- When to object and when not to object
- How to deal with difficult witnesses
- How to interact with opposing parties and the court

EFFECTIVE EXAMINATIONS

1:30 pm **The Art of Examinations: Introduction of Program Theme**
Barry Weintraub, Rueter Scargall Bennett LLP

1:40 pm **Effective Examinations for Discovery**

- Preparing your client to give evidence
- Interviewing independent witnesses and hostile witnesses
- How to cover everything you need to cover
- Checklist of questions you must ask
- Engaging the witness and telling a story
- Coaching witnesses – the boundaries of acceptable conduct

Includes Panel Discussion and Demonstration of How to Handle Refusals and Runaway Witnesses
Richard B. Swan, Bennett Jones LLP
John Cannings Esq., John Cannings, Barristers

2:20 pm **Conducting Examinations in Chief**

- The role of examining counsel
- Leading v. permissible questions
- Keeping witnesses under control
- Making your case
- How to prompt a forgetful witness
- When to stop

Includes Panel Discussion and Demonstration of Advanced Examination in Chief and Trouble-shooting for Forgetful Witnesses
Alfred M. Kwinter, Singer Kwinter
Glenn Smith, Lenczner Slaght Royce Smith Griffin LLP
The Honourable E. Eva Frank, Ontario Superior Court of Justice

3:20 pm Break

IN THE HEAT OF BATTLE

3:30 pm **Effective Cross-Examination**

- Making your case in cross-examination
- Communicating your theory of the case
- Mitigating damage
- Attacking credibility
- Techniques to control difficult witnesses
- Contradicting witnesses and the Rule in Browne v. Dunn
- When you must examine, and when you should not
- Avoiding one question too many
- Starting and finishing with flourish

Includes Panel Discussion and Demonstration of Techniques for Impeachment, Difficult Witnesses & Experts
Bryan Finlay, QC, WeirFoulds LLP
Geoffrey Adair, QC, Adair Morse LLP
The Honourable Mary Lou Benotto, Ontario Superior Court of Justice

4:45 pm **What We Have Learned: Program Wrap-up**
Andrea Sanche, Ricketts Harris LLP

4:50 pm Question Period

5:00 pm Program Concludes

Your registration fee includes the keynote address, welcome reception, special events, breakfasts, lunches, refreshments, and access to the electronic materials for ALL programs.

PROGRAM REGISTRATION IS ONLINE www.oba.org/institute2013
Questions? pd@oba.org