

## Divine Discoveries: Building a Great Case

### Young Lawyers Division

**Date:** Thursday, March 01, 2018 | 1:30 pm to 5:00 pm

**Location:** Twenty Toronto Street Conferences and Events  
20 Toronto Street, 2<sup>nd</sup> Floor, Toronto

**Program Chairs:** **Thomas Kurys**, Wilson Lue LLP  
**Paul Lomic**, Lomic Law



In-Person



Webcast



This program contains 1 Professionalism Hour  
This program is eligible for up to 2.5 Substantive Hours

The OBA has been approved as an Accredited Provider of Professionalism Content by The Law Society of Upper Canada.

A good discovery will help you prepare your client for trial and understand your opponent's case. A great discovery will force your opponent to settle, and at the very least, set you up for a less stressful and better organized trial. Get practical tips from the pros on how to be great (if not divine) at this half-day program on key elements such as preparation, e-discovery, credibility, and undertakings. Whether you are a new lawyer preparing for your first discovery, or a seasoned veteran looking to improve your technique, this program will help you hone your skills.

1:00 pm	Registration and Coffee	
1:30 pm	Welcome and Opening Remarks	
1:35 pm	<b>Examining Discovery: An Overview of the Discovery Process, and the Law</b> <b>Sam R. Sasso</b> , Ricketts Harris LLP	<ul style="list-style-type: none"><li>How to particularize privileged documents in Schedule B to the Affidavit of Documents</li><li>Relevance under the January 1, 2010 amendments to the <i>Rules of Civil Procedure</i></li><li>Do you need to produce witness statements?</li></ul>
	<ul style="list-style-type: none"><li>What is the purpose of discovery and how does it fit into the litigation process?</li><li>Important case law that you should know</li><li>Key topics that must be covered</li><li>Managing your case to facilitate your discovery</li></ul>	3:00 pm Networking Break
2:00 pm	<b>Preparing Yourself and Your Client for Discovery</b> <b>W. Grant Worden</b> , Torsys LLP	3:20 pm <b>e-Discovery: The Fundamentals</b> <b>Marlon Hylton</b> , Cassels Brock & Blackwell LLP
	<ul style="list-style-type: none"><li>What should you look out for when reviewing the file?</li><li>Setting your goals/checklist</li><li>Effectively preparing your witness</li><li>Which representative of the party (client) should you use as a witness?</li><li>When should you seek to discover another representative of the opposing party?</li><li>Understanding the importance of "going with the flow" when examining</li><li>Preparing your client for the ethical issues of disclosure</li><li>When to examine non-parties</li><li>Effectively using expert reports to ask questions</li><li>Asking for findings, opinions, and conclusions</li><li>How do you successfully use witness statements?</li><li>How can you leverage surveillance?</li></ul>	<ul style="list-style-type: none"><li>What is it?</li><li>Examining the e-Discovery Guidelines and OBA precedents</li><li>Discovery Plans</li><li>What should you ask for from the opposing party?</li><li>Determining whether they have given it all up, or whether you need to dig for more</li><li>When should you engage outside help?</li><li>Use of e-Discovery information/documents at trial</li><li>Use of technology in document management</li><li>Using law office technology in a competent manner</li></ul>
		3:45 pm <b>Discovery Demonstration</b> <b>Moya Graham</b> , McCarthy Tétrault LLP <b>Adam Ship</b> , McCarthy Tétrault LLP
		Watch and learn: leading litigators will conduct a brief discovery demonstration and will discuss what worked and what didn't, while responding to questions from the audience.
2:30 pm	<b>Affidavits of Documents, Privilege and Confidentiality</b> <b>Emily Kettel</b> , Bennett Jones LLP	4:20 pm <b>Undertakings and the Inevitable Refusals Motion</b> <b>Prothonotary Kevin Aalto</b> , Federal Court of Canada <b>Master Linda S. Abrams</b> , Superior Court of Justice
	<ul style="list-style-type: none"><li>Preparing the affidavit of documents and building your case</li><li>Sufficiently instructing/protecting your client</li><li>Your role as counsel in document preservation<ul style="list-style-type: none"><li>Rule 2.07 of the <i>Rules of Professional Conduct</i></li></ul></li><li>Attacking your opponent's affidavit of documents</li><li>What you need to know about privilege and confidentiality</li></ul>	<ul style="list-style-type: none"><li>Determining the strategy of the questioner</li><li>Obtaining information from former employees</li><li>Obtaining information from third parties/witnesses</li><li>Best efforts/reasonable efforts</li><li>How should you handle unrepresented litigants?</li><li>Undertakings and Refusals Motions</li><li>Rule 5.1-6 and 7.2-11 of the <i>Rules of Professional Conduct</i></li></ul>

**PROGRAM REGISTRATION IS ONLINE** [www.oba.org/pd](http://www.oba.org/pd)

Questions? [pd@oba.org](mailto:pd@oba.org)

4:40 pm **Professionalism and Ethical Traps When Dealing with  
Difficult Situations - an interactive Q&A**

**Prothonotary Kevin Aalto**, Federal Court of Canada

**Master Linda S. Abrams**, Superior Court of Justice

**Adam Ship**, McCarthy Tétrault LLP

Come prepared with questions! Panelists will respond to  
questions from the audience on topics such as:

- How should you effectively deal with obstreperous  
opposing counsel?
- Dealing with your client's inconsistent statements
- Discovery considerations for individuals with special  
circumstances (e.g. from another cultural  
background, difficulties with English)

5:00 pm Program Concludes

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