

Top Appeals of 2019 from the Court of Appeal for Ontario

Civil Litigation

Date: Wednesday, April 15, 2020 | 5:30 pm to 7:45 pm

Location: OBA Conference Centre
20 Toronto Street, 2nd Floor, Toronto

Agenda: 5:30 pm Registration and Buffet Dinner
5:45 pm Program Begins
7:45 pm Program Concludes



In-Person



Webcast



Professionalism Hours: This program contains a total of 0h 15m of Professionalism content

Substantive Hours: This program is eligible for up to 1h 45m
The OBA has been approved as an Accredited Provider of Professionalism Content by The Law Society of Ontario.

Now in its fourth season, “Top Appeals” invites you to hear from counsel who have acted on some of the key civil litigation appeals decided by the Ontario Court of Appeal this past year. You will hear diverse points of view and gain unique insights during our discussion of some of the Court’s top decisions, and their impact on the law and your practice. All litigators, whether in-house or external counsel, will benefit from the topics and issues that will be examined here. We will analyze decisions that touch on the recoverability of pure economic loss in tort/product liability law, the priority of construction trust claims over those of other creditors in bankruptcy, and the scope of the doctrines of abuse of process and collateral attack.

Register now and stay up to date on the latest jurisprudence from Ontario’s highest court.

Program Chairs: **John Polyzogopoulos**, Blaney McMurtry LLP
Lea Nebel, Blaney McMurtry LLP

***Darmar Farms Inc. v Syngenta Canada Inc.*, 2019 ONCA 789 – Product Liability – Tort of “Premature Commercialization” – Pure Economic Loss**

Michael J. Peerless, McKenzie Lake Lawyers LLP

Scott Maidment, McMillan LLP

- Refresher on the law of negligence and pure economic loss in the product liability context
- When is “pure economic loss” recoverable in negligence?
- “Premature commercialization” – What is it? A new tort? A new category of negligence where pure economic loss is recoverable?
- Contrasting *Darmar Farms* with *1688782 Ontario Inc. v. Maple Leaf Foods Inc.*, 2018 ONCA 407 (under reserve by the SCC)
- Evidence admissible on Rule 21 motions - Particulars and documents referred to in pleadings

***The Guarantee Company of North America v Royal Bank of Canada*, 2019 ONCA 9 – Insolvency and Construction Law – Priority of Statutory Construction Trusts in Bankruptcy**

Miranda Spence, Aird & Berlis LLP

Scott Rollwagen, Lenczner Slaght Royce Smith Griffin LLP

- Trust Claims under the *Construction Act*
- Overview of the Priority Regime in Bankruptcy
- The Three Certainties of a Trust
- Contrasting Statutory Trusts Under the *Construction Act* with Statutory Deemed Trusts in other contexts
- Implications of *Guarantee Company v RBC* for secured lenders, owners, contractors, government and unsecured creditors

***Wright v. Urbanek*, 2019 ONCA 823 – The Scope of Abuse of Process and Collateral Attack**

John O’Sullivan, Barrister & Solicitor

Andrew Burgess, Andrew Burgess Law

- Refresher on the law of the doctrines of:
 - *res judicata*
 - issue estoppel
 - abuse of process
 - collateral attack
- Reviewing the subtle differences between these doctrines
- When are claims or defences that “could” have been raised, but were not, barred from being raised in the future?
- Implications of *Wright v Urbanek* for the conduct of litigation and professional liability for counsel

PROGRAM REGISTRATION IS ONLINE www.oba.org/pd

Questions? pd@oba.org