

Causation on Trial:

Making Sense of Causation in the Most Difficult Cases

CO-CHAIRS: **Cindy Clarke**, *Borden Ladner Gervais LLP*
Richard Halpern, *Gluckstein Lawyers*

February 26, 2021

9:00 a.m. to 4:10 p.m.

Total CPD Hours = 5 h Substantive + 1 h Professionalism ^P

Webcast Only
Law Society of Ontario
Toronto, ON

SKU CLE21-00204

Agenda

9:00 a.m. – 9:05 a.m.

Welcome and Opening Remarks

Cindy Clarke, Borden Ladner Gervais LLP

Richard Halpern, Gluckstein Lawyers

9:05 a.m. – 10:00 a.m.

But-For Causation: What Is It and Are There Exceptions?

Moderator: *Cindy Clarke, Borden Ladner Gervais LLP*

Panelists: *Richard Halpern, Gluckstein Lawyers*

Professor Erik Knutsen, Faculty of Law, Queen's University

**10:00 a.m. – 10:45 a.m. Determining Causation Arising from Multiple Events:
Discussed and Described Through Practical Scenarios**

Moderator: Darryl Cruz, *McCarthy Tétrault LLP*

Panelists: The Honourable Justice Darla Wilson
Superior Court of Justice

Barbara Legate, C.S., *Legate Personal Injury Lawyers*

10:45 a.m. – 10:50 a.m. Question and Answer Session

10:50 a.m. – 11:00 a.m. Break

**11:00 a.m. – 11:30 a.m. How to Determine When It Is Appropriate to Rely on
Inference in the But-For Analysis**

Gayle Brock, *Brock Medical Malpractice Law PC*

Tom Curry, C.S. *Lenczner Slaght Royce Smith Griffin LLP*

**11:30 a.m. – 12:10 p.m. Is Ambit of Risk the New Alternative to But-For:
Where Does It Fit?**

Moderator: Richard Halpern, *Gluckstein Lawyers*

Panelists: Domenic Crolla, *Gowling WLG (Canada) LLP*

Jerome Morse, C.S., *Morse Shannon LLP*

12:10 p.m. – 12:15 p.m. Question and Answer Session

12:15 p.m. – 1:00 p.m. Lunch Break

1:00 p.m. – 1:45 p.m. Using Fact Scenarios to Illustrate the Distinction Between Cause-in-Fact and Other Liability Concepts (10 m P)

Moderator: Anna Marrison, *Borden Ladner Gervais LLP*

Panelists: Darryl Cruz, *McCarthy Tétrault LLP*

Peter Kryworuk, *Lerners LLP*

1:45 p.m. – 2:30 p.m. How to Develop Appropriate Jury Questions of the Issue of Causation (20 m P)

Moderator: Donald Dow, *Gowling WLG (Canada) LLP*

Panelists: Hilik Elmaleh, *Sommers Roth & Elmaleh Professional Corporation*

Anna Marrison, *Borden Ladner Gervais LLP*

2:30 p.m. – 2:35 p.m. Question and Answer Session

2:35 p.m. – 2:40 p.m. Break

2:40 p.m. – 3:10 p.m. Working with Experts (20 m P)

Panelists: Cindy Clarke, *Borden Ladner Gervais LLP*

Cynthia Kuehl, C.S., *Lerners LLP*

3:10 p.m. – 4:05 p.m. Developing a New Approach to the Question of Causation (10 m P)

Moderator: Cindy Clarke, *Borden Ladner Gervais LLP*

Panelists: The Honourable Thomas Cromwell. C.C.
Borden Ladner Gervais LLP

The Honourable John Laskin

Paul Pape, *Pape Chaudhury LLP*

Mary Thomson, *Gowling WLG (Canada) LLP*

4:05 p.m. – 4:10 p.m.

Question and Answer Session

4:10 p.m.

Program Ends