



## THE SIX-MINUTE CRIMINAL LAWYER 2017

Chairs: **The Honourable Michael Tulloch**, *Court of Appeal for Ontario*

**Jamie Klukach**, Crown Counsel, Crown Law Office – Criminal,  
Criminal Law Division, *Ministry of the Attorney General*

**Janet Leiper, C.S.**, Barrister & Solicitor

**April 8, 2017**

**9:00 a.m. to 1:00 p.m.**

**Total CPD = 3 h 30 m Substantive + 30 m Professionalism **

**The Law Society of Upper Canada  
130 Queen Street West  
Toronto, ON**

CLE17-00403



### **Agenda**

**9:00 a.m. – 9:06 a.m.**

#### **Welcome and Opening Remarks**

The Honourable Michael Tulloch, *Court of Appeal for Ontario*

Jamie Klukach, Crown Counsel, Crown Law Office –  
Criminal, Criminal Law Division, *Ministry of the Attorney General*

Janet Leiper, C.S., Barrister & Solicitor

9:06 a.m. – 9:20 a.m.	<b>The Impact of <i>Jordan</i> on Ethical Responsibilities</b> (14 minutes  )  The Honourable George Strathy, Chief Justice <i>Court of Appeal for Ontario</i>
9:20 a.m. – 9:28 a.m.	<b>The Top 10 Cases out of the Ontario Court of Justice</b>  The Honourable Aston Hall, <i>Ontario Court of Justice</i>
9:28 a.m. – 9:36 a.m.	<b>Admissibility of Expert Testimony – The <i>White Burgess</i> Effect</b>  Brian Greenspan, C.S., <i>Greenspan Humphrey Weinstein</i>
9:36 a.m. – 9:44 a.m.	<b>Mental Health Diversion: Advocating for Your Clients with Mental Illness</b> (8 minutes  )  Michael Callaghan, Assistant Crown Attorney – Downtown Toronto, Crown Law Office – Criminal, Criminal Law Division, <i>Ministry of the Attorney General</i>
9:44 a.m. – 9:52 a.m.	<b>Question and Answer Period</b>
9:52 a.m. – 10:00 a.m.	<b>Jury Impartiality – The <i>Dowholis / Bains / Grant and Vivian</i> cases</b>  Mark Sandler, <i>Cooper, Sandler, Shime &amp; Bergman LLP</i>
10:00 a.m. – 10:15 a.m.	<b>Exclusion of Evidence under s.24(2) - Does it Matter if the Evidence Was Obtained Prior to the Rights Violation? <i>R. v. Pino</i></b>  Howard Krongold, <i>Abergel Goldstein &amp; Partners</i>

<b>10:15 a.m. – 10:23 a.m.</b>	<b>Reasonable Doubt Based on the Absence of Evidence</b>  Benjamin Berger, PhD, Associate Dean and Associate Professor, <i>Osgoode Hall Law School, York University</i>
<b>10:23 a.m. – 10:31 a.m.</b>	<b>The Not Criminally Responsible Defence</b>  Paul Burstein, <i>Burstein Bryant Barristers</i>
<b>10:31 a.m. – 10:38 a.m.</b>	<b>Question and Answer Period</b>
<b>10:38 a.m. – 10:58 a.m.</b>	<b>Coffee and Networking Break</b>
<b>10:58 a.m. – 11:06 a.m.</b>	<b>Sentencing Update: <i>Angelis / KRJ</i></b>  Emily Lam, <i>Greenwood Lam LLP</i>
<b>11:06 a.m. – 11:14 a.m.</b>	<b>The Lay of the Land on Joint Submissions – <i>R. v. Anthony-Cook</i></b>  The Honourable Kimberley Crosbie, <i>Ontario Court of Justice</i>
<b>11:14 a.m. – 11:22 a.m.</b>	<b>Similar Fact Update</b>  Danielle Robitaille, <i>Henein, Hutchison LLP</i>
<b>11:22 a.m. – 11:30 a.m.</b>	<b>Section 8 of the Charter and Text Messages: What will the Supreme Court "Telus?"</b>  The Honourable Renee Pomerance, <i>Ontario Superior Court</i>
<b>11:30 a.m. – 11:37 a.m.</b>	<b>Question and Answer Period</b>

<b>11:37 a.m. – 11:45 a.m.</b>	<b>Capacity to Consent When Intoxicated</b>  Susan Chapman, <i>Ursel Phillips Fellows Hopkinson LLP</i>
<b>11:45 a.m. – 11:53 a.m.</b>	<b>Sexual Assault and HIV Non-Disclosure</b>  Jonathan Shime, <i>Cooper, Sandler, Shime &amp; Bergman LLP</i>
<b>11:53 a.m. – 12:01 p.m.</b>	<b>Judicial Pre-Trials and Form 17 - The Path to Efficiency?</b>  Karen Papadopoulos, Crown Counsel, Crown Law Office – Criminal, Criminal Law Division, <i>Ministry of the Attorney General</i>
<b>12:01 p.m. – 12:09 p.m.</b>	<b>Trial within a Reasonable Time - <i>Jordan / Kenny</i></b>  Francesca Yaskiel, Barrister and Solicitor
<b>12:09 p.m. – 12:17 p.m.</b>	<b>Update on Prior Inconsistent Statements</b>  The Honourable John McInnes, <i>Ontario Court of Justice</i>
<b>12:17 p.m. – 12:23 p.m.</b>	<b>Question and Answer Period</b>
<b>12:23 p.m. – 12:31 p.m.</b>	<b>New Developments in the Forensic DNA Analysis of Mixed Samples</b>  Mabel Lai, Crown Counsel, Crown Law Office – Criminal, Criminal Law Division, <i>Ministry of the Attorney General</i>
<b>12:31 p.m. – 12:39 p.m.</b>	<b>The Use of Sentencing Circles</b> (8 minutes  )  The Honourable Mara Greene, <i>Ontario Court of Justice</i>

<b>12:39 p.m. – 12:47 p.m.</b>	<b>Costs Against the Crown – Recent Cases</b>  Ian Smith, <i>Fenton, Smith Barristers</i>
<b>12:47 p.m. – 12:55 p.m.</b>	<b>Applying the Racial Profiling Correspondence Test</b>  Professor David Tanovich, Faculty of Law, <i>University of Windsor</i>
<b>12:55 p.m. – 1:00 p.m.</b>	<b>Question and Answer Period</b>
<b>1:00 p.m.</b>	<b>Program Ends</b>