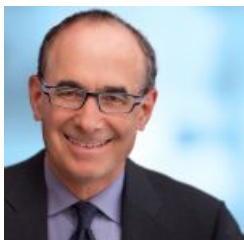


## PROFESSIONAL REGULATION



**WILLIAM S. CLARK\***

Chair

Harper Grey LLP

[wclark@harpergrey.com](mailto:wclark@harpergrey.com)

604.895.2808

\*William S. Clark Law Corporation

Most professionals are required to abide by laws, regulations and rules affecting their practice.

As a professional, you rely on your reputation to sustain the career you've built. Administrative law issues such as certification problems, complaints or investigations can put that reputation in peril, impeding work and affecting your livelihood

Professionals often grapple with serious ethical issues – issues that can become problems that threaten their reputations, security and practices. We have helped clients with almost every type of regulatory issue.

We defend individuals and work with liability insurers, professional associations and organizations to determine the best options.

Harper Grey has, for many years, been the recognized leader in the defence of professionals facing liability issues. We act for doctors, lawyers, accountants, architects and engineers. We also provide administrative law advice for professionals facing disciplinary action.

Public scrutiny over ethical issues for professionals has increased dramatically over the past several years. We provide advice and assistance to professionals in their dealings with governance issues, ethical obligations and responsibilities, and represent them before a wide range of regulatory bodies.

**Did you know that Harper Grey publishes the Canadian Administrative Law Blog? Stay current with new case law and emerging issues – read more [here](#).**

### SERVICES

- Providing advice regarding investigations and inquiries by administrative authorities.
- Advocating for clients before administrative tribunals such as the Health Professions Review Board.
- Representing clients in Judicial Review matters.
- Appealing the decisions of administrative bodies.
- Advising professional organizations regarding liability insurance programs, communication to members and responses to new rules and regulations.
- Constitutional and Charter challenges.
- Defamation, libel, slander and breach of trust matters.
- Advising clients regarding billing audits by the Medical Services Commission, insurance companies and other organizations.
- Human rights complaints and representation before the Human Rights Tribunal.
- Privacy and matters relating to the Freedom of Information and Privacy Act.
- Helping clients with issues relating to government and public bodies.
- Professional errors and omissions insurance claims.

- Workers Compensation Board issues.
- Reinstatement of professional practice applications.

### TYPICAL SITUATIONS

- A pharmacist is under investigation after she fills a script incorrectly, causing a patient to experience heart palpitations and a visit to the emergency room.
- The College of Dental Surgeons audits the billing practices of a dental clinic and finds out that the office manager has misappropriated funds.
- A teacher transferring from another province is denied a Certificate of Qualification. He applies for Judicial Review of the decision.

### SELECT CASES

- Representing professionals before their governing body in disciplinary matters, including allegations of negligence, sexual misconduct, improper prescribing of medication, breach of confidentiality and incompetence.
- Acting as counsel in many court decisions related to the scope of judicial review and appeals from administrative tribunals such as the Health Professions Review Board.
- Appealing disciplinary decisions including matters considered by the Supreme Court of Canada, such as *Dr. Q. v. The College of Physicians and Surgeons of British Columbia*.
- Providing policy advice to professionals and organizations on matters including privacy legislation, the scope of and proposed amendments to the *Health Professions Act*, the role of mediation in professional regulation, the drafting of by-laws and ethical standards.
- Representing health care professionals in disputes with the Medical Services Commission related to billing audits and the recovery of alleged over-payments to health professions.
- Representing clients in wildlife management matters involving the Environmental Appeal Board.
- Representing clients in disputes involving forest practice matters.
- Representing broker dealers, registered representatives and traders in investigations and disciplinary hearings by securities regulatory authorities including the BC Securities Commission, the Investment Dealers Association and the Mutual Fund Dealers Association.

### RECOGNITIONS

Harper Grey recognized as a "Leading Law Firm" regionally in the area of Dispute Resolution by Chambers Canada®, 2017

24 Harper Grey lawyers recognized across 15 specialty areas by Best Lawyers® in Canada, 2017

24 Harper Grey lawyers recognized as "Leading Practitioners" by Canadian Legal Lexpert Directory®, 2018

19 Harper Grey lawyers recognized for litigation expertise by Benchmark Canada®, 2019

Harper Grey receives highest firm ranking as a "Highly Recommended" local litigation law firm in British Columbia from Benchmark Canada® 2014, 2015, 2016, 2017, 2018, 2019

Martindale Hubbell® recognizes 13 Harper Grey lawyers across 27 practice areas

Harper Grey receives the TAGLaw Membership Award of Distinction acknowledging 15 years of outstanding service

Harper Grey recognized as a Top 10 Regional Firm in British Columbia, Alberta and the Territories by Canadian Lawyer Magazine, 2012 and 2014

Harper Grey recognized as "Repeatedly Recommended" in the area of Professional Liability by Canadian Legal Lexpert Directory®, 2019

## COMMENTARIES

"Incredibly strong skill set, knowledge of litigation and strategic, and keen ability to solve problems."

— *Benchmark Canada® 2019*

"These lawyers are all subject matter experts, and leader in their field, whose knowledge and skill are matched by their excellent client service."

— *Benchmark Canada® 2019*

"This team has provided outstanding legal service. They are prompt, responsive, and communicative. They are strong strategists and provide well researched, experienced legal advice. We work with many firms, and Harper Grey stands out. One member of the team remembers every interaction, memo, pleading and document. They understand a very complicated file and address it with ease and candor. We very much appreciate their strong advocacy."

— *Benchmark Canada® 2019*

"The firm is top notch. They have many lawyers specialized in medical defense work who are highly skilled in their legal acumen and practice management, but who also recognize the importance of carrying out their work in a practical, results-oriented manner. They actively look for ways to more efficiently partner with their clients for effective management of the work, while at the same time not weakening their excellent service delivery, their responsiveness, or their effectiveness in the work."

— *Benchmark Canada® 2019*

"The firm's lawyers are principled and have deep integrity. Their work is thorough and of consistent high quality."

— *Benchmark Canada® 2019*

"Excellent response time, good talent from junior and intermediate to senior levels and reasonable service costs."

— *Benchmark Canada® 2018*

"Harper Grey is one of the best firms in Vancouver. They have excellent service, knowledge and their cost structure is excellent."

— *Benchmark Canada® 2017*

"A Vancouver staple, Harper Grey is perhaps the most BC-centric of the "highly recommended" firms, owing largely to the firm's bench strength in several key areas."

— *Benchmark Canada® 2018*

"Rod Anderson is lauded for his enthusiastic client following and his track record of success."

— *Benchmark Canada® 2015*

"Every day it seems like I am dealing with someone at Harper Grey, and I always find them professional, courteous and effective."

— *Benchmark Canada® 2017*

“Harper Grey has a stellar pedigree as a litigation firm, and they’ve put a ton of people on the bench, observes one peer.”

— *Benchmark Canada@ 2014*

“Harper Grey has niches, and in those niches they are the best of the best.”

— *Benchmark Canada@ 2017*

“Rod Anderson – he’s got a reputation for success, he’s got a client following, and he just wins.”

— *Benchmark Canada@ 2013*

“Harper Grey is a trial lawyer’s firm, and they’ve got a big deep bench of well-trained litigators.”

— *Benchmark Canada@ 2017*

“The firm has real quality people, and they’ve put three people on the bench there in six years.”

— *Benchmark Canada@ 2015*

“A lawyer who refers work to Harper Grey wrote it has ‘great service, a breadth of practice and I have never received a negative comment from referrals to the firm’.”

— *2014 Canadian Lawyer Magazine Stronger than Ever - Top Western & Northern Firms, September 1, 2014*

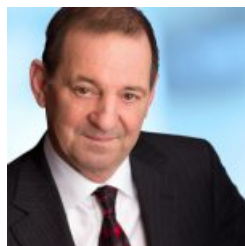
“They exceeded all my expectations. I am very satisfied with their work and very happy to recommend them.”

— *Chambers Canada@ 2017*

“Harper Grey lawyers are ‘dedicated to their clients and focused on finding and implementing practical solutions for them. The lawyers are prompt, intelligent and insightful, and provide a high level of customer service’.”

— *2012 Canadian Lawyer Magazine@ Embracing Regionalism - Canadian Lawyer’s Top 10 firms from B.C., Alberta, and the Territories are in the Sweet Spot Right Now, October 1, 2012*

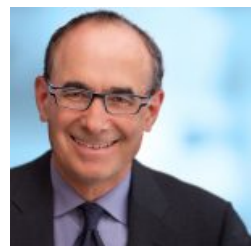
## LAWYERS



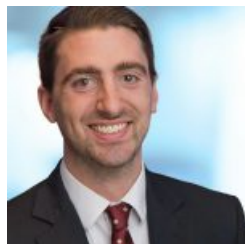
**H. RODERICK ANDERSON\***  
randerson@harpergrey.com  
604.895.2849



**GUY P. BROWN, QC\***  
gbrown@harpergrey.com  
604.895.2804



**WILLIAM S. CLARK\***  
wclark@harpergrey.com  
604.895.2808



**JACKSON C. DOYLE**  
jdoyle@harpergrey.com  
604.895.2905



**MICHAEL J. HEWITT\***  
mhewitt@harpergrey.com  
604.895.2930



**KARA L. HILL**  
khill@harpergrey.com  
604.895.2836



**KIMBERLY J. JAKEMAN\***  
kjakeman@harpergrey.com  
604.895.2817



**LINDSAY R. JOHNSTON**  
ljohnston@harpergrey.com  
604.895.2865



**DEREK MAH\***  
dmah@harpergrey.com  
604.895.2840



**SCOTT J. MARCINKOW**  
smarcinkow@harpergrey.com  
604.895.2846



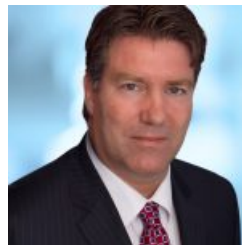
**JONATHAN D. MEADOWS\***  
jmeadows@harpergrey.com  
604.895.2809



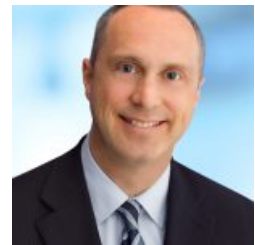
**JOEL A. MORRIS**  
jmorris@harpergrey.com  
604.895.2887



**RAJ SAMTANI\***  
rsamtani@harpergrey.com  
604.895.2823



**W. SEAN TAYLOR**  
wstaylor@harpergrey.com  
604.895.2839



**NIGEL L. TREVETHAN\***  
ntrevethan@harpergrey.com  
604.895.2821

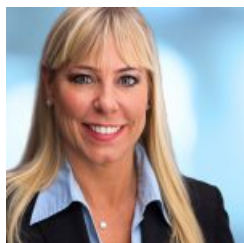


**BRETT WENINGER**  
bweninger@harpergrey.com  
604.895.2913

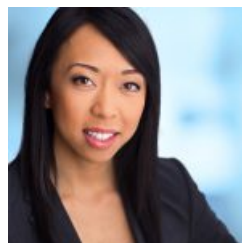


**LARA C. ZEE**  
lzee@harpergrey.com  
604.895.2824

## PARALEGALS



**LISA EVENSON**  
levenson@harpergrey.com  
604.895.2866



**LINDA MAI**  
lmai@harpergrey.com  
604.895.2874

## SELECT NEWS

**Harper Grey receives 48 rankings from Best Lawyers® in Canada 2020**

Related to: Sandra Abley, JD, CFP®, TEP, Steven Abramson\*, Owais Ahmed, Bryan G. Baynham, QC, Richard E. Bereti\*, Salman Y. Bhura\*, Guy P. Brown, QC\*, William S. Clark\*, Prentice Durbin\*, Michael J. Hewitt\*, Kimberly J. Jakeman\*, Steven G. Lukas\*, Maureen L.A. Lundell, QC, William D. MacRae\*, Derek Mah\*, Jonathan D. Meadows\*, David W. Pilley, Una Radoja\*, Christopher M. Rusnak\*, Raj Samtani\*, John P. Sullivan\*, W. Sean Taylor, Michael G. Thomas\*, Nigel L. Trevethan\*, Abigail C.F. Turner\*, Henning W. Wiebach\*, Jennifer R. Woznesensky, Lara C. Zee - 21.Aug.19

**Harper Grey recognized as a “Leading Firm” in five practice areas by 2019 Canadian Legal Lexpert® Directory**

06.May.19

**2019 Canadian Legal Lexpert® Directory recognizes 16 Harper Grey lawyers as “Leading Practitioners”**

Related to: Steven Abramson\*, H. Roderick Anderson\*, Richard E. Bereti\*, Guy P. Brown, QC\*, William S. Clark\*, Cameron B. Elder, Michael J. Hewitt\*, Kimberly J. Jakeman\*, Jonathan D. Meadows\*, David W. Pilley, Christopher M. Rusnak\*, Raj Samtani\*, W. Sean Taylor, Nigel L. Trevethan\*, Abigail C.F. Turner\*, Lara C. Zee - 06.May.19

**Benchmark Canada® 2019 recognizes 19 Harper Grey lawyers for litigation expertise**

Related to: Richard E. Bereti\*, Salman Y. Bhura\*, Guy P. Brown, QC\*, William S. Clark\*, Michael J. Hewitt\*, Kimberly J. Jakeman\*, Jonathan D. Meadows\*, David W. Pilley, Michael G. Thomas\*, Nigel L. Trevethan\*, Abigail C.F. Turner\*, Jennifer R. Woznesensky, Steven Abramson\*, Cameron B. Elder, Una Radoja\* - 27.Mar.19

**Jonathan Meadows elected as Harper Grey’s next Managing Partner**

Related to: Jonathan D. Meadows\* - 07.Dec.18

**Jackson Doyle elected as Member-at-Large of CBA Administrative Law Section**

Related to: Jackson C. Doyle - 22.Aug.18

**30 Harper Grey Lawyers recognized by Best Lawyers® in Canada 2019**

Related to: Steven Abramson\*, Owais Ahmed, H. Roderick Anderson\*, Bryan G. Baynham, QC, Richard E. Bereti\*, Salman Y. Bhura\*, Guy P. Brown, QC\*, William S. Clark\*, Prentice Durbin\*, Michael J. Hewitt\*, Kimberly J. Jakeman\*, James M. Lepp, QC, Steven G. Lukas\*, Maureen L.A. Lundell, QC, Derek Mah\*, Jonathan D. Meadows\*, David W. Pilley, Una Radoja\*, Christopher M. Rusnak\*, Raj Samtani\*, John P. Sullivan\*, W. Sean Taylor, Michael G. Thomas\*, Nigel L. Trevethan\*, Abigail C.F. Turner\*, Henning W. Wiebach\*, Jennifer R. Woznesensky, Lara C. Zee - 21.Aug.18

**19 Harper Grey Lawyers recognized for litigation expertise by Benchmark Canada® 2018**

Related to: H. Roderick Anderson\*, Bryan G. Baynham, QC, Richard E. Bereti\*, Salman Y. Bhura\*, Guy P. Brown, QC\*, Karen F. Douglas\*, Michael J. Hewitt\*, Kimberly J. Jakeman\*, James M. Lepp, QC, Jonathan D. Meadows\*, David W. Pilley, Christopher M. Rusnak\*, John P. Sullivan\*, Michael G. Thomas\*, Nigel L. Trevethan\*, Abigail C.F. Turner\*, Jennifer R. Woznesensky, Cameron B. Elder, Una Radoja\* - 19.Apr.18



**2018 Canadian Legal Lexpert® Directory recognizes 24 Harper Grey lawyers as “Leading Practitioners”**

Related to: Steven Abramson\*, H. Roderick Anderson\*, Bryan G. Baynham, QC, Richard E. Bereti\*, Salman Y. Bhura\*, Guy P. Brown, QC\*, William S. Clark\*, Karen F. Douglas\*, Prentice Durbin\*, Michael J. Hewitt\*, Kimberly J. Jakeman\*, James M. Lepp, QC, Maureen L.A. Lundell, QC, Jonathan D. Meadows\*, David W. Pilley, Una Radoja\*, Christopher M. Rusnak\*, Raj Samtani\*, W. Sean Taylor, Nigel L. Trevethan\*, Abigail C.F. Turner\*, Lara C. Zee - 13.Apr.18

**Harper Grey recognized as a “Leading Firm” in five practice areas by 2018 Canadian Legal Lexpert® Directory**

13.Apr.18

**Harper Grey welcomes new associate, Natalia Tzemis**

Related to: Natalia V. Tzemis - 15.Feb.18

**SELECT NEWSLETTERS + UPDATES**

**Case Summary: Complaint Dismissed: What can the BC Human Rights Tribunal consider when dismissing a complaint on the basis that it “would not further the purpose of this Code”**

Published In: Administrative Law Newsletter – 20.Aug.19

Written by: Adam R. Way

**Case Summary: Pharmacists Professional Misconduct: The scope of conditions a Discipline Committee can impose when there is a finding of professional misconduct**

Published In: Administrative Law Newsletter – 20.Aug.19

Written by: Adam R. Way

**Case Summary: Court of Appeal upholds Law Society’s significant fine and suspension against lawyer with repeat infractions**

Published In: Administrative Law Newsletter – 20.Aug.19

Written by: JoAnne Barnum

**Case Summary: Errors in review of medical record lead to decision of ICRC being set aside**

Published In: Administrative Law Newsletter – 20.Aug.19

Written by: JoAnne Barnum

**Case Summary: Discretionary decision granting or refusing public interest standing afforded appellate deference. Chambers judge identified applicable factor in not granting public interest standing to appellants**

Published In: Administrative Law Newsletter – 16.Jul.19

Written by: Jackson C. Doyle

**Case Summary: Limitation period of administrative judicial review decisions in NB begins at notification of decision or “public availability” of decision**

Published In: Administrative Law Newsletter – 16.Jul.19

Written by: Jackson C. Doyle

**Case Summary: A residential tenancy branch arbitrator erred in granting an order for possession to a landlord when he failed to adequately address the issue of the landlord's good faith intentions, and the adequacy of the renovation permits**

Published In: Administrative Law Newsletter – 16.Jul.19

Written by: Scott J. Marcinkow

**Case Summary: An individual was granted standing to seek judicial review after his complaint about excessive force was dismissed by the police chief and the law enforcement review board**

Published In: Administrative Law Newsletter – 16.Jul.19

Written by: Scott J. Marcinkow

**Case Summary: Ontario Court of Appeal upholds decision that an infringement of physicians' religious beliefs is justified to increase access to medical services (including medical assistance in dying) for vulnerable patients**

Published In: Administrative Law Newsletter – 16.Jul.19

Written by: Scott J. Marcinkow

**Case Summary: Application for judicial review regarding new criminal record check procedure was remitted for fresh hearing due to ambiguity in the record before the first application judge**

Published In: Administrative Law Newsletter – 18.May.19

Written by: Kara L. Hill

**Case Summary: Emails amongst clients where lawyers were not included on thread but their privileged work product was being discussed were considered protected by solicitor-client privilege**

Published In: Administrative Law Newsletter – 18.May.19

Written by: Kara L. Hill

**Case Summary: The federal Bankruptcy and Insolvency Act governs applications for leave to sue where a receiver is appointed under both that legislation and the provincial Courts of Justice Act**

Published In: Administrative Law Newsletter – 18.May.19

Written by: Joel A. Morris

**Case Summary: Relief from forfeiture under Law and Equity Act does not apply to statutory forfeiture under Residential Tenancy Act**

Published In: Administrative Law Newsletter – 18.May.19

Written by: Joel A. Morris

**Case Summary: Moot – an interpretation and application of the principle in the context of an application for judicial review**

Published In: Administrative Law Newsletter – 21.May.19

Written by: Adam R. Way

**Case Summary: An application of the “Kienapple principle” in the administrative context – double punishment for the same offence**

Published In: Administrative Law Newsletter – 21.May.19

Written by: Adam R. Way

**Case Summary: The obligations of a liquor establishment to its patrons– an appeal from the decision of the Ontario Licence Appeal Tribunal**

Published In: Administrative Law Newsletter – 21.May.19

Written by: Adam R. Way



**Case Summary: Merits of an appeal should not be considered when deciding whether to convert a notice of application for leave to appeal to a notice of appeal**

Published In: Administrative Law Newsletter – 21.May.19

Written by: JoAnne Barnum

**Case Summary: College's quality assurance program records held not producible under FIPPA request**

Published In: Administrative Law Newsletter – 21.May.19

Written by: JoAnne Barnum

**Case Summary: A professional regulatory body erred in its application of the law when assessing whether collateral police evidence was admissible**

Published In: Administrative Law Newsletter – 16.Apr.19

Written by: Jackson C. Doyle

**Case Summary: A tribunal reasonably declined an adjournment and reasonably proceeded with one hearing on liability and penalty**

Published In: Administrative Law Newsletter – 16.Apr.19

Written by: Jackson C. Doyle

**Case Summary: Although Universities have broad discretion to make academic decisions, some factual allegations will allow a student to defeat a motion for summary judgment**

Published In: Administrative Law Newsletter – 16.Apr.19

Written by: Scott J. Marcinkow

**Case Summary: A government's funding decision did not give rise to individual rights enforceable on judicial review**

Published In: Administrative Law Newsletter – 16.Apr.19

Written by: Scott J. Marcinkow

**Case Summary: A father was not able to establish adverse effect discrimination after he refused to work out of town and away from his infant child for several weeks**

Published In: Administrative Law Newsletter – 16.Apr.19

Written by: Scott J. Marcinkow

**Case Summary: Appeal tribunal's decision to uphold a medical school participant's dismissal found unreasonable due to failure to consider the law of accommodation**

Published In: Administrative Law Newsletter – 19.Mar.19

Written by: Kara L. Hill

**Case Summary: Federal Court sets aside appeal panel's decision to uphold denial of veteran's pension application because panel unreasonably concluded that the applicant's physician's report was speculative and not credible**

Published In: Administrative Law Newsletter – 19.Mar.19

Written by: Kara L. Hill

**Case Summary: An application for information from exempted records – not for the records – is not a valid application for access to information**

Published In: Administrative Law Newsletter – 19.Mar.19

Written by: Joel A. Morris

**Case Summary: Procedural fairness is reviewed on a standard of correctness**

Published In: Administrative Law Newsletter – 19.Mar.19

Written by: Joel A. Morris

**Case Summary: Court upholds District's decision not to grant business licenses for short-term rentals**

Published In: Administrative Law Newsletter – 19.Feb.19

Written by: JoAnne Barnum

**Case Summary: The Law Society's findings of professional misconduct were reasonable given the lawyer's failure to disclose a conflict of interest to his client**

Published In: Administrative Law Newsletter – 19.Feb.19

Written by: JoAnne Barnum

**Case Summary: The Privacy Act and access to personal information: Court rejects complaint with the Officer of Privacy Commissioner that it improperly denied the applicant access to his personal information**

Published In: Administrative Law Newsletter – 19.Feb.19

Written by: Adam R. Way

**Case Summary: PTSD in the Workplace: What must the claimant establish to be entitled to benefits under the Workers Compensation Act?**

Published In: Administrative Law Newsletter – 19.Feb.19

Written by: Adam R. Way

**Case Summary: Can the Human Rights Tribunal second guess the exercise of medical judgment: Court rejects Hospital's argument that patient's human rights complaint for discriminatory treatment as having no prospect of success**

Published In: Administrative Law Newsletter – 19.Feb.19

Written by: Adam R. Way

**Case Summary: Human Rights Complaint remitted back for reconsideration after Court determines failure by Commission to apply appropriate legal test and comply with duty of procedural fairness**

Published In: Administrative Law Newsletter – 19.Feb.19

Written by: Adam R. Way

**Case Summary: Agricultural Land Commission's interpretation of legislation was unreasonable**

Published In: Administrative Law Newsletter – 15.Jan.19

Written by: Jackson C. Doyle

**Case Summary: Municipal Council's consultative process was held to be procedurally fair**

Published In: Administrative Law Newsletter – 15.Jan.19

Written by: Jackson C. Doyle

**Case Summary: The Court has jurisdiction to order an inquest even when the Chief Coroner decides not to do so**

Published In: Administrative Law Newsletter – 18.Dec.18

Written by: Scott J. Marcinkow

**Case Summary: Allegations of disguised discipline can be reviewed by the Law Enforcement Review Board**

Published In: Administrative Law Newsletter – 18.Dec.18

Written by: Scott J. Marcinkow

**Case Summary: Ontario Court quashes City of Hamilton's decision to remove political party's discriminatory, anti-transgender bus-stop ads due to failure to consider the party's Charter right to free speech**

Published In: Administrative Law Newsletter – 18.Dec.18

Written by: Kara L. Hill

**Case Summary: Ontario Court rules that doctrine of discoverability does not apply to the hard limitation period provided under the Insurance Act and SABS**

Published In: Administrative Law Newsletter – 18.Dec.18

Written by: Kara L. Hill

**Case Summary: Regulatory body can modify legal rights when doing so is in the public interest**

Published In: Administrative Law Newsletter - 16.Nov.18

Written by: Joel A. Morris

**Case Summary: Seven-year delay in disciplinary process constitutes abuse of process**

Published In: Administrative Law Newsletter - 16.Nov.18

Written by: Joel A. Morris

**Case Summary: The Rebuttal Presumption in section 7(2) of the Worker's Compensation Act: A discussion of the appropriate interpretation and analysis**

Published In: Administrative Law Newsletter - 16.Nov.18

Written by: Adam R. Way

**Case Summary: Accommodation in the Workplace: Judicial Review of the decision of the Human Rights Commission denying that an employee was constructively dismissed due to a failure to accommodate her disability by her employer**

Published In: Administrative Law Newsletter - 16.Nov.18

Written by: Adam R. Way

**Case Summary: Caught Stealing: Judicial Review of the decision to terminate a police officer from her employment**

Published In: Administrative Law Newsletter - 16.Nov.18

Written by: Adam R. Way

**Case Summary: The battle for public space and accommodation: Appeal of the decision to deny a pro-life advocacy group advertising space on public buses**

Published In: Administrative Law Newsletter - 16.Nov.18

Written by: Adam R. Way

**Case Summary: Development Cost Charges may apply if the developer receives a direct or indirect benefit from City drainage works**

Published In: Administrative Law Newsletter – 16.Oct.18

Written by: JoAnne Barnum

**Case Summary: Regulator's procedure may vary if member not prejudiced by change**

Published In: Administrative Law Newsletter – 16.Oct.18

Written by: JoAnne Barnum

**Case Summary: BIP to Recover Doctor's Fraudulent Billings and Cancel Enrollment in MSP**

Published In: Administrative Law Newsletter – 16.Oct.18

Written by: Jackson C. Doyle

**Case Summary: FIPPA Request for Billing Information of Top 100 Ontario Physicians**

Published In: Administrative Law Newsletter – 16.Oct.18

Written by: Jackson C. Doyle

**Case Summary: The Applicant, Dollar General Corporation, successfully applied to the Federal Court to set aside a decision of the Registrar of Trademarks which had expunged its trademark, "DOLLAR GENERAL". The Registrar had made this decision after an application was made by the Respondent, 2900319 Canada Inc.**

Published In: Administrative Law Newsletter – 18.Sep.18

Written by: Scott J. Marcinkow

**Case Summary: The Applicant, Chartered Professional Accountants of British Columbia ("CPABC"), unsuccessfully sought leave to appeal a decision of the British Columbia Supreme Court. The Supreme Court had allowed a statutory appeal from a discipline decision made by the CPABC against the Respondent, Mr. Vuong Nguyen.**

Published In: Administrative Law Newsletter – 18.Sep.18

Written by: Scott J. Marcinkow

**Case Summary: A doctor's petition for judicial review of the College's rejection of his application for independent registration was dismissed. While the first of the two College assessments of the doctor was more favourable than the second, it was made clear that the first assessment was an interim one and the second was final, so the College was entitled to rely upon the findings of the second assessment over the first**

Published In: Administrative Law Newsletter – 18.Sep.18

Written by: Kara L. Hill

**Case Summary: International arbitration award from New York was recognized and enforced in Ontario, despite party's argument that it was not yet "binding" within the meaning of the Model Law as they still intended to argue issues of costs before the arbitrator**

Published In: Administrative Law Newsletter – 18.Sep.18

Written by: Kara L. Hill

**Case Summary: Whether a child-client's litigation records with the Children's Lawyer for Ontario are subject to a parent's freedom of information request**

Published In: Administrative Law Newsletter – 21.Aug.18

Written by: Joel A. Morris

**Case Summary: Decisions of law societies not to accredit proposed law school at Trinity Western University reasonable**

Published In: Administrative Law Newsletter – 21.Aug.18

Written by: Joel A. Morris

**Case Summary:** This case considers the appropriateness of advancing new arguments on judicial review, not considered by the original decision-maker, and how the court ought to address those issues. The appellant in this case advanced new Charter arguments that were first raised with the Court of Appeal. The Court of Appeal concluded it would be inappropriate for it to hear these arguments for the first time without a complete factual record. The matter was remitted back to a new panel for consideration.

Published In: Administrative Law Newsletter – 21.Aug.18

Written by: Adam R. Way

**Case Summary:** This case involves judicial review of a decision of the Landlord and Tenancy Board, and subsequent decision of the chamber's judge upholding that decision, in which the Board granted an application to evict the appellants on the basis that their conduct was impairing the safety of others at a mobile home complex. The primary argument advanced was that the appellants did not have proper notice of the grounds for eviction. The court rejected this argument and affirmed the decision of the Board.

Published In: Administrative Law Newsletter – 21.Aug.18

Written by: Adam R. Way

**Case Summary:** This case involves judicial review of a decision of the Residential Tenancy Branch finding that a non-profit community housing guest policy was discriminatory and harmed the residents. The court dismissed the judicial review, finding that the Tribunal's decision was reasonable.

Published In: Administrative Law Newsletter – 21.Aug.18

Written by: Adam R. Way

**Case Summary:** Where a hearing panel's penalty decision falls within a reasonable range of outcomes, deference should be given to that committee's decision in light of its expertise

Published In: Administrative Law Newsletter – 17.Jul.18

Written by: JoAnne Barnum

**Case Summary:** A prior penalty decision can be considered by a hearing panel in making a subsequent penalty decision, even if the prior penalty is under review, depending on the wording of the governing legislation

Published In: Administrative Law Newsletter – 17.Jul.18

Written by: JoAnne Barnum

**Case Summary:** A strata sought a judicial stay of proceeding following a Civil Resolution Tribunal ("CRT") decision to deny the strata's request to be represented by counsel, and subsequent decision to deny the strata's request for a stay of proceedings pending its application for judicial review regarding the decision to deny the strata's request for counsel

Published In: Administrative Law Newsletter – 17.Aug.18

Written by: JoAnne Barnum

**Case Summary:** Clorox unsuccessfully appealed a decision of the Registrar of Trademarks rejecting Clorox's opposition to trademark registrations filed by Chlorotec

Published In: Administrative Law Newsletter – 19.Jun.18

Written by: Jackson C. Doyle

**Case Summary:** The plaintiff sought an appeal of the trial decision that awarded him damages for wrongful dismissal but denied his claim for benefit schemes

Published In: Administrative Law Newsletter – 19.Jun.18

Written by: Jackson C. Doyle

**Case Summary: The Appellant, University of British Columbia, successfully appealed the order of a Chambers Judge. The Chambers Judge had denied its petition for judicial review of a decision of an adjudicator in the Office of the Information and Privacy Commissioner (OIPC). The adjudicator had ordered certain admissions criteria to be disclosed to the Respondent, Mr. Lister.**

Published In: Administrative Law Newsletter – 19.Jun.18

Written by: Scott J. Marcinkow

**Case Summary: The Appellant, Downtown Vancouver Business Improvement Association (the “Association”), successfully appealed a decision from a Chambers Judge in the Supreme Court of BC. The Chambers Judge had granted an application for judicial review made by the Respondent, Vancouver Area Network of Drug Users (the “Network”), in relation to a BC Human Rights Tribunal decision. In the result, the BC Court of Appeal reinstated the earlier decision of the BC Human Rights Tribunal, which had dismissed the Network’s complaint against the Association.**

Published In: Administrative Law Newsletter – 19.Jun.18

Written by: Scott J. Marcinkow

**Case Summary: When faced with a multi-pronged test, a tribunal must not rely on a broad-brush approach, but must engage in a thorough analysis of the entire test, reviewing all the evidence before it**

Published In: Administrative Law Newsletter – 15.May.18

Written by: Kelsey A. Rose

**Case Summary: City councillors may not be subpoenaed to give evidence regarding the making of their decisions**

Published In: Administrative Law Newsletter – 15.May.18

Written by: Kelsey A. Rose

**Case Summary: Where there is evidence before the decision-maker to support his decision, the court ought not itself consider the scientific and technical evidence**

Published In: Administrative Law Newsletter – 15.May.18

Written by: Kelsey A. Rose

**Case Summary: Paramedic found to be in the course of his employment when injured on his day off while assisting on-duty paramedics with a fellow music festival attendee who had collapsed**

Published In: Administrative Law Newsletter – 15.May.18

Written by: Kara L. Hill

**Case Summary: The Nova Scotia Court of Appeal found the WCB’s decision that the injured worker’s medical marijuana did not qualify for medical aid under its policy was reasonable, and that the policy itself requiring qualifying medical aid treatment to be consistent with Canadian healthcare standards was intra vires and consistent with the Workers Compensation Act**

Published In: Administrative Law Newsletter – 15.May.18

Written by: Kara L. Hill

**Case Summary: The BC Court of Appeal found the City of Vancouver’s bylaw authorizing its director of planning to relax zoning bylaw provisions for development proposals that include low cost housing to be valid**

Published In: Administrative Law Newsletter – 15.May.18

Written by: Kara L. Hill



**Case Summary: Appeal from order denying interest to beneficiaries of estate on their legacies**

Published In: Administrative Law Newsletter - 17.Apr.18

Written by: Joel A. Morris

**Case Summary: Appeal from costs orders following dismissal of discipline proceedings**

Published In: Administrative Law Newsletter - 17.Apr.18

Written by: Joel A. Morris

**Case Summary: The appellant high school teacher appealed a finding of professional misconduct made against him, and the resulting penalty, arising from interactions that he had with students and health unit staff at a school immunization clinic; court dismissed the appeal and affirmed the misconduct finding and penalty**

Published In: Administrative Law Newsletter - 17.Apr.18

Written by: Adam R. Way

**Case Summary: Appellant's appeal of a decision of the Federal Court, in which it dismissed the appellants' application for judicial review of three decisions from the Canadian Intellectual Property Office relating to an application for a patent, dismissed**

Published In: Administrative Law Newsletter - 17.Apr.18

Written by: Adam R. Way

**Case Summary: Addressing the doctrine of legitimate expectations in the context of an investigation and report into a harassment complaint, the Court found the applicant had a legitimate expectation based on a representation made and that this was never fulfilled; the matter was remitted back for reconsideration**

Published In: Administrative Law Newsletter - 17.Apr.18

Written by: Adam R. Way

**Case Summary: Court found the applicant failed to exercise all available remedies available to him under the legislative scheme and dismissed the judicial review accordingly**

Published In: Administrative Law Newsletter - 17.Apr.18

Written by: Adam R. Way

**Case Summary: Application for judicial review of a decision of the Legal Services Society of British Columbia in which it denied the applicant's claim for legal aid representation in her family law case; dismissed**

Published In: Administrative Law Newsletter - 17.Apr.18

Written by: Adam R. Way

**Case Summary: Major League Baseball's application for judicial review to set aside an interim decision of the Human Rights Tribunal of Ontario and to dismiss or stay the proceedings was dismissed on the grounds of prematurity**

Published In: Administrative Law Newsletter - 20.Mar.18

Written by: JoAnne Barnum

**Case Summary: An appeal of a decision from the Property Assessment Appeal Board was dismissed as its findings regarding the "highest and best use" of the property were reasonable**

Published In: Administrative Law Newsletter - 20.Mar.18

Written by: JoAnne Barnum

**Case Summary: The College's policies that require physicians to provide an effective referral in cases where the physician is unwilling to provide elements of care on religious grounds are an infringement on some physicians' religious freedoms, but the infringements are justified because the objectives of the policies are of sufficient importance**

Published In: Administrative Law Newsletter - 20.Mar.18

Written by: JoAnne Barnum

**Case Summary: This decision relates to a judicial review of the decision of a delegate of the Superintendent of Motor Vehicles that confirmed a notice of an immediate roadside prohibition issued to the petitioner under section 215.41 of the Motor Vehicle Act**

Published In: Administrative Law Newsletter - 20.Mar.18

Written by: Jackson C. Doyle

**Case Summary: This decision was an appeal from the Consent and Capacity Board which found that the appellant was not capable to consent to treatment with certain psychiatric medications proposed by the respondent physician.**

Published In: Administrative Law Newsletter - 20.Mar.18

Written by: Jackson C. Doyle

**Case Summary: This appeal was brought by a registrant of the Alberta College of Social Workers against a decision of the College's Hearing Tribunal. The Hearing Tribunal found that the appellant engaged in unprofessional conduct when she was rude, dismissive and abrasive. The College brought four charges against the appellant finding that all four allegations had been proven.**

Published In: Administrative Law Newsletter - 20.Mar.18

Written by: Jackson C. Doyle

**Case Summary: Supreme Court of Canada affirms BC Human Rights Tribunal decision to dismiss application, finding the HRT had jurisdiction over the complaint where section 13 only requires a sufficient nexus with the employment context, and not necessarily a relationship of economic power**

Published In: Administrative Law Newsletter - 20.Feb.18

Written by: Kara L. Hill

**Case Summary: Unsuccessful application for judicial review of arbitrator's decision to substitute a two day suspension for the demotions of two firefighters employed by the City**

Published In: Administrative Law Newsletter - 20.Feb.18

Written by: Scott J. Marcinkow

**Case Summary: Unsuccessful application for judicial review of decision made by Social Security Tribunal denying Applicant's claim for disability benefits**

Published In: Administrative Law Newsletter - 20.Feb.18

Written by: Scott J. Marcinkow

**Case Summary: SKQB holds that its jurisdiction, with respect to the suspension of surgical privileges, did not arise until after the Tribunal rendered a decision in discipline process**

Published In: Administrative Law Newsletter - 20.Feb.18

Written by: Scott J. Marcinkow

**Case Summary: ABQB upholds Chief Commissioner's decision on judicial review, concluding the Chief Commissioner drew a reasonable inference that preference for a female babysitter could be easily explained**

Published In: Administrative Law Newsletter - 20.Feb.18

Written by: Kara L. Hill