



Council of Canadian Administrative Tribunals

Performance, Predictability and Proactivity

The Westin Ottawa
11 Colonel By Drive
Ottawa, Ontario
K1N 9H4

Conference Program

27th

ANNUAL
CONFERENCE

**Welcome to CCAT's
27th Annual Conference**

The Conference Co-Chairs:

*Gary Yee
Associate Chair
Social Benefits Tribunal
Toronto, ON*

*Geoff Hare
Chair and Chief Executive Officer
Canadian Transportation Agency
Gatineau, QC*

(Aussi disponible en français)

June 5th to June 7th 2011

SUNDAY, JUNE 5, 2011

NOTE: French-to-English and English-to-French simultaneous translation will be available for all sessions.

9:00 – 11:00

CCAT Board of Directors' Meeting
Québec – Level 4

10:00 – 5:00

REGISTRATION OF PARTICIPANTS
Confederation Ballroom Foyer – Level 4

11:30 – 1:00

LUNCH, WELCOME AND OPENING REMARKS
Confederation II & III – Level 4

Moderator: Guy Giguère, *CCAT President and Chairperson, Public Service Staffing Tribunal, Ottawa*

Conference Co-Chairs: Gary Yee, *Associate Chair, Social Benefits Tribunal, Toronto* and Geoff Hare, *Chairperson and C.E.O., Canadian Transportation Agency, Gatineau*

1:00 – 1:30

PLENARY SESSION A
Confederation II & III – Level 4

Keynote Speaker

From “The New Despotism” to Dunsmuir: A Funny Thing Happened on the Way to the Apocalypse

Our keynote speaker, The Honourable Thomas Cromwell, Supreme Court of Canada, will open the conference with thoughts from the perspective of an appellate judge with considerable experience in the field of administrative law.

1:30 – 2:45

PLENARY SESSION B
Confederation II & III – Level 4

The Great Debate

In this entertaining session, four debaters will engage in extemporaneous debates — six rounds of ten minutes each. For each round, the moderator will select one resolution out of a box, and two debaters will pair up and then flip a coin to take a “pro” or “con” side.

Debaters: Ron Ellis, Q.C., *Barrister and Solicitor, Toronto*; Lorne Sossin, *Dean, Osgoode Hall Law School, Toronto*; Heather MacNaughton, *Barrister and Solicitor, Vancouver*; and Guy J. Pratte, *Barrister and Solicitor, Borden Ladner Gervais LLP, Ottawa*

Moderator: Gary Yee, *Associate Chair, Social Benefits Tribunal, Toronto*

2:45 – 3:15

REFRESHMENTS & NETWORKING
Confederation Ballroom Foyer – Level 4

3:15 – 4:45

SIMULTANEOUS ROUNDTABLE SESSIONS**1. Economic Regulation**

Ontario – Level 3

Join your colleagues from federal and provincial agencies for updates on current issues in the regulatory field...energy, utilities, securities and more.

Moderator: Serge Fréchette, *Vice-Chairperson, Canadian International Trade Tribunal, Ottawa*

Facilitators: Kenneth Bateman, *Member, National Energy Board, Calgary*; Barry Fleming, *Citizens' Representative Newfoundland and Labrador, St. John's*; and James Turner, *Vice-Chair, Ontario Securities Commission, Toronto*

2. High Volume, Short Hearings

Governor General I – Level 4

Explore the special challenges facing adjudicative agencies with high volumes as we try to dispense high quality justice in a fast-paced resource-constrained environment.

Moderator: Gary Stanley, *Chair, Ontario Highway Transport Board, Toronto*

Facilitators: Bob Butterworth, *Vice-Chair, Assessment Review Board, Toronto*; Eric Giguère, *Director, Appeals Directorate, Service Canada – Board of Referees, Ottawa*; and Sandy MacIntosh, *Appeal Commissioner, Workers' Compensation Appeals Tribunal, Halifax*

3. Workers' Compensation

Governor General II – Level 4

Tribunal and Board members are invited to raise and discuss emerging issues in the adjudication and review of workers' compensation matters in their respective jurisdictions.

Facilitators: Marie Langlois, *Juge administratif, Direction régionale de l'Outaouais, Commission des lésions professionnelles, Gatineau* and Louanne Labelle, *Chief Appeal Commissioner, Workers' Compensation Appeals Tribunal, Halifax*

4. Labour Relations

Provinces I – Level 4

Join colleagues from across Canada for an interactive discussion on current issues in the field of labour relations.

Facilitator: Casper M. Bloom, Q.C., *Chairperson, Public Service Labour Relations Board, Ottawa*

5. Human Rights

Provinces II – Level 4

Join in a discussion focusing on the broad application of human rights legislation and its impact on (and possible conflict with) courts, human rights tribunals and other adjudicative bodies.

Facilitator: David A. Wright, *Associate Chair, Human Rights Tribunal of Ontario, Toronto*

SUNDAY, JUNE 5, 2011 (cont'd)

5:00 – 6:30

PRESIDENT'S RECEPTION*Confederation Ballroom Foyer – Level 4**Catch up with old friends or mix and mingle with new colleagues from across Canada!***MONDAY, JUNE 6, 2011**

8:00 – 8:45

**REGISTRATION DESK OPEN AND
CONTINENTAL BREAKFAST***Confederation Ballroom Foyer – Level 4*

8:45 – 9:00

OPENING REMARKS*Confederation II & III – Level 4*

Overview of Conference Theme

Gary Yee, *Associate Chair, Social Benefits Tribunal, Toronto*

9:00 – 10:15

PLENARY SESSION C*Confederation II & III – Level 4*

Performance: The Evaluated Performance

This panel's topic is the evaluation of the performance of tribunal adjudicators and of their tribunals. The issues include: Why is evaluation important? Who should do it? Using what techniques? Measured against what standards? Pursuant to what process? For what purposes? And, yes, what about judicial independence? The panel members bring to the discussion extensive experience in designing and administering successful, established and appropriate programs of performance evaluation.

Speakers: Jill Callan, *Chair, Workers' Compensation Appeal Tribunal, Vancouver*; H el ene de Kovachich, *Pr esidente et juge administratif en chef, Tribunal administratif du Qu ebec, Montr eal*; and Marcel Proulx, *Directeur g en eral,  cole nationale d'administration publique, Qu ebec*

Moderator: Ron Ellis, *Q.C., Barrister and Solicitor, Toronto*

10:15 – 10:45

REFRESHMENTS & NETWORKING*Confederation Ballroom Foyer – Level 4*

10:45 – 12:15

SIMULTANEOUS WORKSHOPS

6. Service Standards and Organizational Excellence
Governor General I – Level 4

Service standards are related to performance, predictability and proactivity, not just to numbers. How to make tribunals and agencies preferred places to work and also meet the public's right to appropriate services? What about resources

and meeting expectations of both service providers and clients? This workshop examines the interrelationships of leadership, tribunal personnel and clients, and suggests a model for organizational excellence.

Speakers: Allan Ebedes, *President & CEO, National Quality Institute, Toronto*; and Angela Coke, *Associate Deputy Minister, HROntario, Ministry of Government Services, Toronto*

Moderator: Danielle Dumont, *R egisseuse, R egie du Logement du Qu ebec, Laval*

7. Unrepresented Parties

Governor General II – Level 4

How do tribunals make proceedings accessible and meaningful to unrepresented parties? How do adjudicators conduct effective hearings without "descending into the arena"? How do judges address this in court? What resources and approaches are available to improve accessibility? This workshop examines innovative approaches and successful initiatives to help meet the challenge. Models and techniques to help ensure accessibility for unrepresented parties will be reviewed through the combined perspectives of the bench, tribunals and bar.

Speakers: Joseph J. Colangelo, *Medico-Legal Society, Health Boards Advocacy Project, Toronto*; The Honourable Robin A. Finlayson, *National Education Chair of the Canadian Association of Provincial Court Judges, Winnipeg*; and Julie E. Gagnon, *Commissioner of Review Tribunals, CPP/OAS, Ottawa*

Moderator: Taivi Lobu, *Vice-Chair, Health Professions and Health Services Appeal and Review Boards, Toronto*

8. Language Rights Issues

Governor General III – Level 4

Despite scarce resources, there is a growing desire to provide access to administrative justice in both official languages and respect parties' procedural rights in this area. With a fast-paced interview format, the diversified panel looks at language-related challenges faced by tribunals, such as managing expectations and avoiding complaints regarding the use of English and French by parties and witnesses; adopting an efficient yet cost-effective infrastructure vis- -vis the language of decisions; and the appropriate use of the Internet.

Speakers: The Honourable Yves de Montigny, *Federal Court of Canada, Ottawa*; Sylvie Charron, *Member, Social Benefits Tribunal (Ontario), Ottawa*; Anne Moreau, *Lawyer, Montr eal*; and Marc Leblanc, *Secretary, Canadian Nuclear Safety Commission, Ottawa*.

Moderator: Sonia Ouellet, *Vice-Chair, Health Professions and Health Services Appeal and Review Boards, Toronto*

12:15 – 1:45

LUNCH AND**ANNUAL GENERAL MEETING OF MEMBERS***Confederation II & III – Level 4*

Report on CCAT's 2010–2011 activities and election of the new Board of Directors for 2011–2012

MONDAY, JUNE 6, 2011 (cont'd)

1:45 – 3:00

PLENARY SESSION D*Confederation II & III – Level 4***Predictability**

Predictability can be achieved through, for example, shared vision and values; greater consistency; clear, accessible reasons for decisions; reliable scheduling; and improved communications. Predictable outcomes and processes benefit both tribunals and their stakeholders — first-level administrators, parties and counsel — decreasing the number of adjournments and increasing hearings' efficiency. This session looks at these benefits and how to achieve them in key areas.

Speakers: Brian P. Goodman, *Chairperson, Immigration and Refugee Board of Canada, Ottawa*; The Honourable Anne Mactavish, *Federal Court of Canada, Ottawa*; and France Houle, *Professeure titulaire, Faculté de droit, Université de Montréal, Montréal*

Moderator: Lilian Ma, *Associate Chair, Landlord and Tenant Board, Toronto*

3:00 – 3:30

REFRESHMENTS & NETWORKING*Confederation Ballroom Foyer – Level 4*

3:30 – 5:00

SIMULTANEOUS WORKSHOPS**9. Writing Cohesive Decisions and Promoting Consistency***Governor General I – Level 4*

Decisions of most administrative tribunals are submitted to the "reasonableness" standard of review. To be considered reasonable, a decision must be intelligible, transparent and justified. How to meet these requirements? This workshop looks at the value for tribunals of developing a model decision framework to reflect these three attributes and to promote consistency in the form and substance of tribunal decisions.

Speakers: The Honourable Kevin Whitaker, *Superior Court of Justice, Toronto*; Jean-François Clément, *Président et juge administratif en chef, Commission des lésions professionnelles, Montréal*; and Elizabeth Barker, *Acting General Counsel, Canadian Transportation Agency, Gatineau*

Moderator: Terry Sargeant, *Chair, Manitoba Clean Environment Commission, Winnipeg*

10. Disclosure Requirements in Regulatory Proceedings*Governor General II – Level 4*

This workshop examines the content of procedural fairness in various regulatory sectors (e.g., energy and competition law); the legal framework regarding disclosure; the impact of dual-track (civil/criminal) prosecutions; the peril of class actions; and applicable standards. Also examined are entitlements to motions for particulars; format of disclosure;

Charter and Bill of Rights arguments; and the latest case law and trends.

Speakers: Gordon Kaiser, *Former Vice-Chair, Ontario Energy Board, Toronto*; Tom Atkinson, *Director, Enforcement, Ontario Securities Commission, Toronto*; and Jeanne Pratt, *Special Legal Advisor to the Commissioner of the Competition Bureau, Ottawa*

Moderator: Glenda A. Campbell, Q.C., *Vice-Chair, Alberta Securities Commission, Calgary*

11. Access to Justice and Privacy Issues*Governor General III – Level 4*

This panel of experts will discuss the latest legal developments regarding privacy laws and their implications for administrative tribunals when fulfilling their adjudicative functions. The panel will also discuss the most recent procedural developments and best practices that should be considered when attempting to strike the appropriate balance between access to justice and the protection of personal information.

Speakers: Virginia Adamson, *Senior Legal Counsel, Public Service Staffing Tribunal, Ottawa*; Paul Schabas, *Partner, Blake Cassels & Graydon, LLP, Toronto*; and Christopher Berzins, *Senior Legal Counsel, Ontario Securities Commission, Toronto*

Moderator: John Higgins, *Senior Adjudicator and Manager of Adjudication, Office of the Ontario Privacy Commissioner, Toronto.*

6:15 – 7:00

RECEPTION*Confederation Ballroom Foyer - Level 4*

7:00 – 10:00

BANQUET, PRESENTATIONS AND ENTERTAINMENT*Confederation II & III – Level 4*

2011 CCAT Medal Presentation to The Honourable John Evans and Marie-Paule Scott Bursaries
Entertainment: Marc Hervieux in concert

TUESDAY, JUNE 7, 2011

8:00 – 9:00

REGISTRATION DESK OPEN AND CONTINENTAL BREAKFAST*Confederation Ballroom Foyer – Level 4*

9:00 – 10:15

PLENARY SESSION E*Confederation II & III – Level 4***Proactivity**

Proactive tribunals, before the hearing, intervene more to control the process and place more responsibilities on all involved. In the hearing, tribunal members are fully involved in identifying key issues, focusing testimony and evidence, and working with the parties and counsel to keep to

TUESDAY, JUNE 7, 2011 (cont'd)

schedule. Also addressed here are proactive strategies for relationships with stakeholders, media and the public, plus the role of communications.

Speakers: The Honourable Stephen Goudge, *Ontario Court of Appeal, Toronto*; and Jacqueline Bannister, *Director of Communications, Canadian Transportation Agency, Gatineau*

Moderator: Michael Gottheil, *Executive Chair, social justice tribunals cluster (Ontario), Toronto*

10:15 – 10:45

REFRESHMENTS & NETWORKING

Confederation Ballroom Foyer – Level 4

10:45 – 12:15

SIMULTANEOUS WORKSHOPS**12. Running a Proactive Hearing**

Governor General I – Level 4

This workshop focuses on issues such as the following: How far can a member go in focusing a hearing or structuring the flow of evidence without interfering with the parties' ability to put forward their case? Does the nature of the hearing or tribunal change these limits? And do the limits change if the applicant is self-represented or appears only via written material?

Speakers: Julius H. Grey, *Barrister and Solicitor, Montreal* and David Phillip Jones, Q.C., *de Villars Jones, Barristers and Solicitors, Edmonton*

Moderator: Shari Stein, *Deputy Chairperson, Immigration Appeal Division, Immigration and Refugee Board of Canada, Toronto*

13. Pre-hearing Proactivity

Governor General II – Level 4

Using pre-hearing tools (such as pre-hearing conferences) may be necessary to run an efficient and focused hearing or to assess whether the case can be settled. What is our aim in using these tools? When and how should we use them? How do Superior Courts view such tools? Are the lawyers or parties willing to cooperate? These questions are discussed by our panel of experts.

Speakers: The Honourable Pierre Isabelle, *Superior Court of Québec, Montréal*; Jean-Pierre Arsenault, *juge administratif, Commission des lésions professionnelles, Montréal*; and Delton Sams, *juge administratif et coordonnateur, Commission des lésions professionnelles, Montréal*

Moderator: Marie-Jo Bouchard, *Barrister and Solicitor, Melançon, Marceau, Grenier and Sciortino, Montréal*

14. Adapting to Changes in Technology

Governor General III – Level 4

Technology can be used as a tool of proactivity by improving the efficiency of hearings in certain cases, and by limiting their environmental impact. However, using these tools bring both advantages and potential problems.

Adjudicators will talk about their first-hand experiences with two of these tools: the paperless hearing, and the hearing via videoconferencing.

Speakers: Benjamin Dolin, *Member, Immigration Appeal Division, Immigration and Refugee Board of Canada, Ottawa*; and Daniel Bureau, *président, Commission des transports du Québec, Québec*

Moderator: Marie Charest, *juge administratif, Tribunal administratif du Québec, Montréal*

12:15 – 1:15

LUNCH & NETWORKING

Confederation II & III – Level 4

1:15 – 1:45

PLENARY SESSION F1

Confederation II & III – Level 4

Closing Keynote Speaker

The Honourable John Evans, Federal Court of Appeal, will address the administrative justice topic that is beginning to loom above all others – i.e., “REASONS”.

1:45 – 2:45

PLENARY SESSION F2

Confederation II & III – Level 4

Administrative Law Update

Five learned and experienced practitioners in the field of administrative law will present their views on issues of current interest to the administrative law community.

Speakers: The Honourable Kevin Whitaker, *Superior Court of Justice, Toronto*; Julius H. Grey, *Solicitor and Barrister, Montréal*; David Phillip Jones, Q.C., *de Villars Jones, Barristers and Solicitors, Edmonton*; Prof. Ravi Malhotra, *Assistant Professor, University of Ottawa, Ottawa*; and Marie-Claire Perrault, *Legal Counsel, Public Service Labour Relations Board, Ottawa*

Moderator: Casper Bloom, Q.C., *Chairperson, Public Service Labour Relations Board, Ottawa*

2:45 – 3:00

**CLOSING COMMENTS AND
END OF CONFERENCE**

Confederation II & III – Level 4

3:00 – 4:00

**MEETING OF CCAT'S 2011-2012
BOARD OF DIRECTORS**

Governor General III – Level 4

GENERAL INFORMATION

Accreditation

CCAT is pleased to inform participants that the Conference has been accredited by several law societies, and counts for a total of 13 hours of continuing legal education (CLE). The law societies are: The Law Society of Upper Canada and the Law Society of British Columbia. A request has been made to Le Barreau du Québec and approval is pending, Registrants who wish attendance certificates are asked to submit a request to the Executive Director by e-mail to: ABTrudeau@videotron.ca.

Evaluation Form

Participants' kits contain an Overall Conference Evaluation Form. Please complete and deposit in the box at the reception desk.

To be environmentally friendly, evaluation forms have not been printed for the conference's 20 sessions. However, evaluation forms are available on CCAT's website under Conferences. Please take a few minutes to complete an evaluation form for each session you attend by going to CCAT website during or after the conference.

CCAT uses participants' comments and suggestions to continuously improve the quality of its annual conferences, programs and services. Thank you!

Presentations by Speakers

The papers and presentations of speakers will not be reproduced but will be available on CCAT's website after the conference. However, only the papers authorized to be posted by their authors will be on the website.

Future CCAT Conferences

Year 2012

CCAT's 28th Annual Conference
The Calgary Westin
Calgary, Alberta
May 13 to May 15, 2012

Year 2013

CCAT's 6th International Conference
The Westin Harbour Castle
Toronto, Ontario
May 26 to May 28, 2013

2011 Conference Organizing Committee

Members of CCAT's Board of Directors and Executive Committee extend their sincere appreciation to the following volunteers who gave generously of their time and effort to bring you this 27th Annual Conference.

CONFERENCE ORGANIZING COMMITTEE CO-CHAIRS:

Gary Yee, Associate Chair, Social Benefits Tribunal, Toronto
Geoff Hare, Chairperson and CEO, Canadian Transportation Agency, Gatineau

COMMITTEE MEMBERS:

Casper M. Bloom, Q.C., Chairperson, Public Service Labour Relations Board, Ottawa

Mary Camacho, Registrar and Chief Operating Officer, Ontario Civilian Police Commission, Toronto

Glenda A. Campbell, Q.C., Vice-Chair, Alberta Securities Commission, Calgary

Marie Charest, Juge administratif, Tribunal administratif du Québec, Montréal

Santina Di Pasquale, Juge administratif, Commission des lésions professionnelles, Montréal

Ron Ellis, Q.C., Barrister and Solicitor, Toronto

Michael Gottheil, Executive Chair, social justice tribunals cluster (Ontario), Toronto

Claude Jacques, Commissaire, Commission des transports du Québec, Québec

Louanne Labelle, Chief Appeal Commissioner, Workers' Compensation Appeals Tribunal, Halifax

Marie Lamarre, Juge administratif, Commission des lésions professionnelles, Montréal

Linda P. Lamoureux, Chair, Health Professions and Health Services Appeal and Review Boards, Toronto

Lilian Ma, Associate Chair, Landlord and Tenant Board, Toronto

Wendy Liston, Manager, Legal Support Services Division, Canadian Transportation Agency, Gatineau

Terry Sargeant, Chair, Manitoba Clean Environment Commission, Winnipeg

Gary Stanley, Chair, Ontario Highway Transport Board, Toronto

Shari Stein, Deputy Chairperson, Immigration Appeal Division, Immigration and Refugee Board of Canada, Toronto

Josée Turcotte, Deputy Secretary and Independent Adjudicative Counsel, Ontario Securities Commission, Toronto

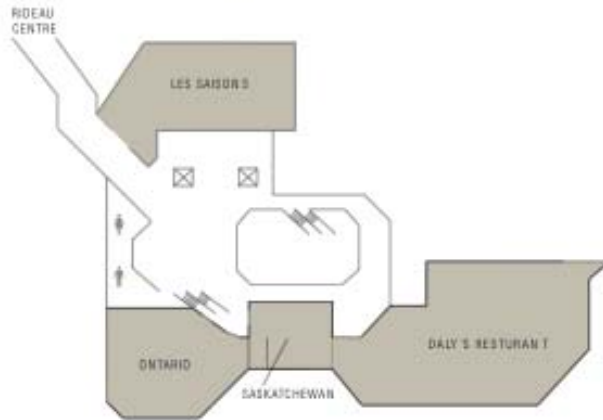
Bernd Walter, Chair, B.C. Review Board, Vancouver

For more information, please contact:

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The Westin Ottawa

LEVEL THREE



LEVEL FOUR

