

# 4<sup>th</sup>

This program has been accredited by the Law Society of Upper Canada towards the professional development requirement for certification.  
Civil Litigation: 10 hours.



# DECISION WRITING

Gain from the practical advice of seasoned adjudicators from tribunals, commissions and boards to hone and master your decision writing skills

February 23 & 24, 2010, Ottawa  
Two-Day Event!

Attendance at this course can be reported as 11.0 hours of Continuing Professional Development (CPD) to the Law Society of British Columbia (a minimum of 2 hours will involve aspects of professional responsibility)

## Workshop Included: Decision Writing Exercise

### participating organizations

Canada Agricultural Review Tribunal  
Canadian International Trade Tribunal  
Canada Pension Plan/Old Age Security Review Tribunals  
Department of Justice  
Gowling Lafleur Henderson LLP  
Licence Appeal Tribunal  
Public Service Labour Relations Board  
Royal College of Dental Surgeons of Ontario  
WeirFoulds LLP

### who should attend

- Chairs, Vice-Chairs, Adjudicators and Members of Administrative Tribunals, Commissions, Boards and Agencies
- Adjudicators for professional and police discipline tribunals
- Tribunal and commission counsel
- City councilors and others who sit on adjudicative committees

### course highlights

Regardless of your level of experience, this course will provide an invaluable opportunity to hone your writing skills and pick up practical tips for decision-making and writing.

*"Good broad scope of decision writing. Very satisfied with all presenters."*

- Paul D'Astous,  
New Brunswick Insurance Board

*"It was a good review of the principles of legal writing."*

- Jennifer Sloan,  
Military Police Complaint  
Commission

*"Received a great deal of information. Thank you."*

*"Very useful for me."*

*"Good overview and learned from others' experiences."*



**Course Leader**  
Dr. Donald Buckingham,  
Canada Agricultural Review Tribunal



Philippe Rabot,  
Canada Pension Plan/Old Age Security Review Tribunals



Irwin Fefergad,  
Royal College of Dental Surgeons of Ontario



Lynda Tanaka,  
Licence Appeal Tribunal



Ian R. Mackenzie,  
Public Service Labour Relations Board



Brian Crane,  
Gowling Lafleur Henderson LLP



Jeff G. Cowan,  
WeirFoulds LLP



Richard Kramer,  
Department of Justice

as well as:

Ellen Fry,  
Canadian International Trade Tribunal

## FACULTY

### COURSE LEADER

#### DR. DONALD BUCKINGHAM

Before assuming the position of Chair of the Canada Agricultural Review Tribunal in 2009, Dr. Buckingham acted as a private lawyer, government lawyer, law professor, author and consultant in the areas of agriculture, food, constitutional, administrative and international trade law. He has been a member of the Law Society of Upper Canada since 1988 and is co-author of seven books, including *Agriculture Law in Canada* (1999), *Halsbury's Laws of Canada-Agriculture* (2009) and *Halsbury's Laws of Canada-Food* (2009).

### CO-LECTURERS

#### IAN R. MACKENZIE

Ian R. Mackenzie was appointed as a vice-chairperson of the Public Service Labour Relations Board (PSLRB) in 2005, after serving for three years as a full-time member of the Public Service Staff Relations Board. He served as acting chairperson of the PSLRB in 2006.

#### IRWIN FEFERGRAD

Irwin Fefergrad has been Registrar/CEO of the Royal College of Dental Surgeons of Ontario since 2000. In addition to his statutory responsibilities, he oversees the professional and administrative activities of the College, liaising with the profession, external stakeholders and government on healthcare related issues. He joined the Royal College of Dental Surgeons of Ontario in 1997 as Director, Investigations and Hearings.

#### LYNDA TANAKA

Lynda Tanaka is Chair of the Licence Appeal Tribunal, an independent quasi-judicial administrative tribunal that settles disputes concerning compensation claims and licensing activities regulated by the Ontario Ministry of Children and Youth Services, the Ministry of Community Safety and Correctional Services, the Ministry of Consumer Services, the Ministry of Municipal Affairs and Housing, the Ministry of Training, Colleges and Universities and the Ministry of Transportation.

#### PHILIPPE RABOT

In 2005, Philippe Rabot became Commissioner of the Canada Pension Plan/Old Age Security Review Tribunals. He has extensive senior level experience in the administrative tribunal community, having worked as a manager and adjudicator for federal and provincial administrative tribunals for 26 years. Previously, he had been the Chair of the RCMP External Review Committee.

#### BRIAN CRANE

Brian Crane is a partner in Gowling Lafleur Henderson LLP (Ottawa). A senior member of Gowlings' Advocacy Law Group, he practises in constitutional, administrative and aboriginal law and appears as counsel before the Supreme Court of Canada, the Federal Court and the provincial courts. He has worked extensively in the negotiation of native land claims and related litigation and in commercial arbitration and mediation.

#### ELLEN FRY

Ellen Fry was appointed Member of the Tribunal in 2001. Her experience includes her appointment as Director of Legal Services at Industry Canada and Environment Canada. In these positions, she managed legal work on major issues involving commercial and trade law, industrial development, international agreements, legislation, litigation and government activity.

#### JEFF COWAN

Jeff Cowan acts as counsel before and to administrative tribunals and before the trial and appellate courts in many aspects of public law, including professional self-regulation & discipline, judicial review of government decision-making, freedom of information & privacy matters, municipal & provincial planning, municipal assessment & taxation, health, education, alcohol & gaming, social assistance, legislative drafting & government relations and the Canadian Charter of Rights and Freedoms.

#### RICHARD KRAMER

Richard Kramer is General Counsel at the Department of Justice. He acts as counsel on behalf of the Attorney General of Canada and various government departments before administrative tribunals and at all levels of both the Federal and Ontario Courts. His practice includes hearings, judicial reviews and appeals commenced under the Extradition Act, pension law, human rights law, coroner's inquests, Charter litigation and other administrative law proceedings.

## COURSE PROGRAM

### INTRODUCTION TO THE DECISION WRITING PROCESS

Members of administrative tribunals, commissions, boards and agencies usually develop their decision writing ability on the job, learning as they go by following what is – or what they perceive to be – the traditional way of writing for their tribunal. With the opportunity for obtaining feedback limited, this program will provide adjudicators or others exercising quasi-judicial duties, regardless of their level of experience, with the invaluable opportunity to hone their writing skills and pick up practical tips that will aide them in their decision making and writing. This session will set the stage by providing an overview of the process, touching on the elements that will be covered in greater depth throughout the course.

- Why write reasons?
- The judicial perspective
- Sufficiency: a sliding scale

### FORMULATING REASONS FOR DECISIONS

The providing of reasons for a decision is a function of due process, as fairness requires that the parties should know why they have won or lost. The reasons should allow the parties to see the degree to which their arguments have been understood and accepted as well as to understand the basis of the decision. This presentation will provide insight into the process of providing and organizing reasons for a decision.

- Impact on the adjudication process
- Gathering necessary information
- Reasoning and writing
- Audience

## JUDICIAL REVIEW AND REASONS

The chance of a decision being overturned on judicial review is less likely if the decision is supported by a clear and logical application of law to facts, effectively communicated to the parties. This presentation will examine the nature of judicial review and provide tips to assist you in coming to decisions that will withstand judicial scrutiny.

- Nature of judicial review
- What courts look for in reasons
- Need for fairness in your adjudication
- Trying to "JR-proof" your reasons

## WRITING STYLE

Decisions should not only be well-organized, concise and clear of thought and expression, but also well written. This session is designed to assist decision-makers in improving their writing style and skills, stressing the nature of good prose, use of language and the special requirements and problems of decision writing in order to write clear, concise and coherent reasons.

- Organization
- The need for plain language
- Plain language tips
- Avoiding common errors

## FACT FINDING BEST PRACTICES

Findings of fact are a critical part of the administrative process as it is usually only in the original adjudication that fact finding is undertaken. This session will explore best practices for the fact-finding process that will assist you in producing clear logical decisions.

- Issue identification
- Eliciting the facts you need
- Rules of evidence
- Oral and written evidence

## APPLYING LAW TO FACTUAL FINDINGS

Any decision that does not follow policy, law or precedent on a particular matter should be well reasoned and set forth explicitly the reasons for the departure. This session will examine best approaches for applying law to factual findings.

- Applicable law and statutory interpretation
  - What is the policy and/or law that governs this issue?
  - Stating the relevant law clearly and persuasively
  - Dealing with each of the contentions put forward by the parties
  - Dealing with disagreements amongst the parties as to which law applies
  - Identifying the law precisely
  - Considering law that was not argued before the hearing
  - Connecting the evidence and case law to the issues
  - Determining the statutory criteria that must be used in the analysis
  - Key principles of statutory interpretation
- The importance of precedent
- Tribunal rules and guidelines
- Reaching legal conclusions on the facts

## WRITING EFFECTIVE CONCLUSIONS

When writing a decision, the conclusion is the opportunity to make clear what has been decided and explicitly and unequivocally state the consequences of its decision. This presentation will examine the elements that go into formulating an effective conclusion to your decision.

- Explaining your conclusions
  - Spelling out the steps taken in making the decision
  - Providing the reader with a logical progression of the decision
  - Including recommendations or statements of actions to be taken
- Persuasive writing: being explicit and unequivocal
- Audience: remembering for whom you are writing the decision: biggest impact is on the losing party
- Practical tips

## PANEL DISCUSSION: DECISION WRITING TIPS AND BEST PRACTICES

Based on their wide and cumulative experience, panelists will share their own practical tips and advice for mastering decision writing. The discussion will explore some of the common errors made in decision writing today and offer practical suggestions for honing your skills.

- Do's and don'ts
- Decision writing checklist
- Natural justice
- Consultation
- Privacy considerations in writing a decision

## WORKSHOP

### DECISION WRITING EXERCISE

This hands-on workshop is meant to put into practice some of the concepts learned during the course. Participants will be asked to demonstrate their comprehension of the subject by working through applied writing exercises. You are asked to bring one of your own decisions to the workshop, where you will have the opportunity to revise your decision and receive individual feedback from workshop facilitators.

- Draft decisions will be critiqued and discussed in depth
- Hands-on analysis of actual decisions
- Examination of style and tone of writing
- Making every word count

# MULTIMEDIA PRESENTATIONS

Register for Decision Writing and we will give you free of charge a CD-ROM comprising the following virtual presentations from recent Federated Press courses and conferences. Presented in their entirety with complete audio and accompanying PowerPoint slides totaling 579 minutes of expert learning, these presentations are an added bonus to this year's course. Bear in mind that these presenters are not necessarily those that you will see and hear at this year's course.

## Introduction to the Decision Writing Process

Richard Makuch,  
Office of the Commissioner of Review Tribunals  
Time: 54

## Writing Effective Issue Statements

Toby Vigod,  
Ontario Environmental Review Tribunal  
Time: 27 Slides: 14

## Organizing the Discussion of the Evidence: Analyzing and Weighing the Evidence

Steven Faughnan,  
Office of the Information and Privacy  
Commissioner of Ontario  
Time: 39 Slides: 23

## Judicial Review and You

Justice Dennis Lane,  
Superior Court of Justice  
Time: 44

## Providing Reasons for Decision: Why, When and What to Say

Gerry Stobo,  
Border Ladner Gervais LLP  
Time: 44 Slides: 26

## Writing Style

Athanasios D. Hadjis,  
Canadian Human Rights Tribunal  
Time: 42 Slides: 29

## Writing Effective Conclusions

James Ogilvy,  
Canadian International Trade Tribunal  
Time: 31

## Fact Finding Best Practices

Justice Dennis Lane,  
Superior Court of Justice  
Time: 50

## The Decision Writing Process: Practical Tips for Writing Documents

James Ogilvy,  
Canadian International Trade Tribunal  
Time: 57 Slides: 22

## Applying Law to Factual Findings

John Higgins,  
Office of the Information and Privacy  
Commissioner of Ontario  
Time: 49 Slides: 21

## Panel Discussion: Decision Writing Tips and Best Practices

John Higgins, Office of the Information and  
Privacy Commissioner of Ontario;

Athanasios D. Hadjis,  
Canadian Human Rights Tribunal;  
Delton Sams,  
Commission des lésions professionnels;  
Ian R. Mackenzie,  
Public Service Labour Relations Board;  
Brian A. Crane, Q.C.,  
Gowling Lafleur Henderson LLP  
Time: 55

## Writing Effective Introductory Statements: Setting the Tone for the Decision

Paul B. Sommerville,  
Ontario Energy Board  
Time: 37 Slides: 13

## Impact of Policy and Precedent in Decision Writing

John Higgins,  
Office of the Information and Privacy  
Commissioner of Ontario  
Time: 50 Slides: 12

Audio/Video segments clickable slide by slide  
Papers and overheads also included  
Print any of the material for your own use



PROCEEDINGS CD - ROM

**Registration:** To reserve your place, call Federated Press toll-free at 1-800-363-0722. In Toronto, call (416) 665-6868 or fax to (416) 665-7733. Then mail your payment along with the registration form. Places are limited. Your reservation will be confirmed before the course.

**Location:** Novotel Ottawa, 33 Nicholas Street, Ottawa, Ontario, K1N 9M7

**Cost:** The attendance fee for the course is \$1825 per person and covers attendance for one person and the lecturers' presentation material. The fee further includes lunch on both days, morning coffee on both days and refreshments during all breaks. You may purchase a Proceedings CD-ROM containing edited actual proceedings and materials from the course.

**Time:** This course is a two-day event. Registration begins at 8:00 a.m. The morning sessions start promptly at 9:00. The second day ends at 4:00 p.m.

**Cancellation:** Please note that non-attendance at the course does not entitle the registrant to a refund. In the event that a registrant becomes unable to attend following the deadline for cancellation, a substitute attendee may be delegated. Please notify Federated Press of any changes as soon as possible. Federated Press assumes no liability for changes in program content or speakers. A full refund of the attendance fee will be provided upon cancellation in writing received prior to February 10, 2010. No refunds will be issued after this date. Please note that a 15% service charge will be held in case of a cancellation.

**Discounts:** Federated Press has **special team discounts**. Groups of 3 or more from the same organization receive a **10%** discount. Groups of 7 or more from the same organization receive a **15%** discount.

Payment must be received prior to February 16, 2010

Phone: 1-800-363-0722 Toronto: (416) 665-6868 Fax: (416) 665-7733

## TO REGISTER FOR DECISION WRITING

Name \_\_\_\_\_  
 Title \_\_\_\_\_ Department \_\_\_\_\_  
 Approving Manager Name \_\_\_\_\_  
 Approving Manager Title \_\_\_\_\_  
 Organization \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_  
 Telephone \_\_\_\_\_ Fax \_\_\_\_\_ e-mail \_\_\_\_\_  
 Please bill my credit card:  AMEX  VISA  Mastercard  
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 Signature : \_\_\_\_\_  
 Payment enclosed:  Please invoice. PO Number: \_\_\_\_\_

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## REGISTRATION COSTS

NUMBER OF PARTICIPANTS:   
 COURSE: \$1825  
 COURSE + PROCEEDINGS CD-ROM:  
 \$1825 + \$125 = \$1950  
 PROCEEDINGS CD-ROM: \$499  
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