

# 5<sup>th</sup>

# Decision Writing

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



February 16 & 17, 2011, Ottawa | Two-Day Event!

## Workshop Included: Practical Application: Decision Writing Exercise participating organizations

Borden Ladner Gervais LLP  
Environment and Land Tribunals Ontario - Assessment Review Board  
Gowling Lafleur Henderson LLP  
Information and Privacy Commissioner/Ontario  
Public Service Labour Relations Board  
Public Service Staffing Tribunal  
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
- Arbitrators

## 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.

Best of all, a 3-hours hands-on exercise will allow you to put into practice what you have learned by critiquing actual published court and tribunal decisions, and rewriting one of them. Rewritten decisions will then be shared and discussed.



**Course Leader**  
Robert Butterworth,  
Environment and Land Tribunals Ontario - Assessment Review Board

David Goodis,  
Information and Privacy Commissioner/  
Ontario

Irwin Fefergrad,  
Royal College of Dental Surgeons of  
Ontario

Brian Crane,  
Gowling Lafleur  
Henderson LLP

Ian R. Mackenzie,  
Public Service  
Labour Relations Board

Christopher D. Bredt,  
Borden Ladner  
Gervais LLP

Athanasios D. Hadjis,  
Public Service  
Staffing Tribunal

Jill Dougherty,  
Weirfoulds LLP

*"I've benefitted from the course in that it confirmed my experience learned from 4+ years on the board. I really appreciated the level of experience and professionalism of the presenters who were able to convey the subject matter in plain language. The course should be a must for all new board members to set a standard."*

- Harold Leduc,  
Tribunal Member,  
Veterans Review and  
Appeal Board

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

- Paul D'Astous,  
New Brunswick Insurance Board

*"Have a better understanding of how to organize the material and how to focus on the more important aspects of writing a valid and well grounded decision."*

- Richard Bonin,  
Member, Veterans Review and  
Appeal Board

*"Very useful refresher."*

- Denis Brazeau,  
Part-Time Vice Chair,  
Canadian Forces Grievance  
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."*

*"I have learned much about writing styles and writing effective reasons as well as some common pitfalls to avoid."*

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

*"Very useful for me."*

## FACULTY

### COURSE LEADER

#### ROBERT BUTTERWORTH

Robert Butterworth, Q.C. has been a Vice Chair of the **Assessment Review Board** since 2002, following 30 years in the practice of law in the Town of Perth. He was a Director of the Society of Ontario Adjudicators and Regulators from 2002-2008. He has been involved in program design for and remains an active presenter and facilitator at SOAR training programs including the Adjudicator Training Course and decision writing workshops.

### CO-LECTURERS

#### BRIAN CRANE

Brian Crane is a partner at **Gowling Lafleur Henderson LLP** (Ottawa). A senior member of Gowlings' Advocacy Law Group, he practises in constitutional, administrative and aboriginal law.

#### IRWIN FEFERGRAD

Irwin Fefergrad has been Registrar/Chief Executive Officer 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.

#### IAN R. MACKENZIE

Ian R. Mackenzie was appointed as a vice-chairperson of the **Public Service Labour Relations Board** in 2005, after serving for 3 years as a full-time member of the Public Service Staff Relations Board. He served as acting chairperson of the PSLRB in 2006.

#### CHRISTOPHER D. BREDT

Christopher Bredt is a Senior Litigation Partner in the Toronto office of **Borden Ladner Gervais LLP**, where he practices in the areas of administrative, constitutional and corporate/commercial litigation.

#### ATHANASIOS D. HADJIS

Athanasios Hadjis serves as Legal Counsel at the **Public Service Staffing Tribunal**. He became a member of the Canadian Human Rights Tribunal Panel in 1995, and from 2005 to 2010, he served as the CHRT's Vice-chairperson.

#### JILL DOUGHERTY

Jill Dougherty of **Weirfoulds LLP** has over 20 years of experience acting on behalf of both private and public sector clients. She appears regularly as counsel before the trial and appellate courts and administrative tribunals in many aspects of public law.

#### DAVID GOODIS

David Goodis is Senior Counsel with the **Information and Privacy Commissioner/Ontario**, representing the IPC in judicial review hearings before the Divisional Court and the Ontario Court of Appeal, and providing legal advice to the Commissioner.

## 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 in their tribunal. With the opportunity for obtaining feedback limited, this program will provide adjudicators or others exercising quasi-judicial duties, 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 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

### SUPPLEMENTARY COURSE MATERIAL

Federated Press is now providing delegates with access to an innovative new database containing at least 25 interactive multimedia presentations by leading experts and approximately 20 hours of lectures on the topics covered by this course, including all slides and speakers' papers. See the list of presentations on page 4.

Delegates will also receive a trial subscription to the Legal Channel, a much broader resource representing hundreds of hours of interactive multimedia lectures on leading edge Legal topics as delivered at our many recent Legal conferences and courses.



Attendance at this course can be reported as 11.0 hours of Continuing Professional Development (CPD) to the Law Society of New Brunswick

Attendance at this program can be reported as 11.0 hours of Continuing Professional Development (CPD) to the Law Society of B.C.



# COURSE PROGRAM

## 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
- Recent court cases on 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 explicitly set forth 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
  - Connecting the evidence and case law to the issues
  - Determining the statutory criteria that must be used in the analysis
  - 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
  - Making the conclusion decisive
- Audience considerations
- 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

### PRACTICAL APPLICATION: 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 critiquing actual published court and tribunal decisions, and rewriting one of them. Rewritten decisions will then be shared and discussed.

- Hands-on analysis of actual decisions
- Examination of style and tone of writing
- Making every word count

This program has been accredited by the Law Society for 12 hours toward the annual Professionalism Requirement



## MULTIMEDIA PRESENTATIONS

Your registration includes an interactive multimedia database comprising the following presentations from recent Federated Press courses and conferences. They are presented in their entirety with complete audio or video and accompanying slides. You may also purchase the multimedia proceedings of the course which will be available on CD-ROM 60 days after the course.

### Writing Effective Issue Statements

Toby Vigod,  
Ontario Environmental Review Tribunal

### Introduction to the Decision Writing Process

Richard Makuch,  
Office of the Commissioner of Review Tribunals

### Judicial Review and You

Justice Dennis Lane,  
Superior Court of Justice

### Applying Law to Factual Findings

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

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

Steven Faughnan,  
Office of the Information and Privacy  
Commissioner of Ontario

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

Gerry Stobo,  
Border Ladner Gervais LLP

### Writing Effective Conclusions

James Ogilvy,  
Canadian International Trade Tribunal

### Fact Finding Best Practices

Justice Dennis Lane,  
Superior Court of Justice

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

James Ogilvy,  
Canadian International Trade Tribunal

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

Paul B. Sommerville,  
Ontario Energy Board

### Impact of Policy and Precedent in Decision Writing

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

### 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

**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, ON, K1N 9M7

**Conditions:** Registration covers attendance for one person, the supplementary course material as described in this document, lunch on both days, morning coffee on both days and refreshments during all breaks. The proceedings of the course will be captured on audio or video. Multimedia proceedings with all slides and handouts can be purchased separately on a CD-ROM which will also include the course material.

**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 3, 2011. 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 15%. For larger groups please call.

Payment must be received prior to February 9, 2011

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:	<input type="checkbox"/> AMEX <input type="checkbox"/> VISA <input type="checkbox"/> Mastercard
#	_____ Expiration date: _____ / _____
Signature	_____
Payment enclosed:	<input type="checkbox"/> Please invoice. PO Number: _____
WHEN CALLING, PLEASE MENTION PRIORITY CODE:	MAIL COMPLETED FORM WITH PAYMENT TO: Federated Press P.O. Box 4005, Station "A" Toronto, Ontario M5W 2Z8

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### REGISTRATION COSTS

NUMBER OF PARTICIPANTS:	<input type="text"/>
COURSE:	\$1975
COURSE + PROCEEDINGS CD-ROM:	\$1975 + \$175 = \$2150
PROCEEDINGS CD-ROM:	\$599
NOTE:	Please add 13% HST to all prices.
Proceedings CD-ROM will be available 60 days after the course takes place	
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