

# *The MBA 2010 Mid-Winter Meeting*

Thursday, January 21, 2010  
to  
Saturday, January 23, 2010

Fort Garry Hotel  
222 Broadway, Winnipeg, MB



## *The Manitoba Bar Association's Premier Event of the Year!*

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### **Featuring:**

- Bench & Bar Reception
- Continuing Legal Professional Development Programs
- The MBA Awards Luncheon
- Exhibitors Trade Show
- Presidents' Wind-Down Reception

The MBA Mid-Winter continues the tradition of offering the very best in professional development and providing a wonderful opportunity to make and renew professional contacts from across the province.

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Sponsored by



Watch our website ([www.cba.org/manitoba](http://www.cba.org/manitoba))  
for updated Mid-Winter information

*See Inside for Program Details*

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# MID-WINTER PROGRAM & REGISTRATION INFORMATION

## Thursday, January 21, 2010 – Fort Garry Hotel

5:30pm – 7:30pm – **Bench & Bar Reception** – Broadway Room  
The Hon. Chief Judge Ken Champagne (Provincial Court of Manitoba) and Karen Kost will be hosting this year's reception with MBA President Anthony J. (Tony) Kavanagh and Dorothea Osborne. The reception will include hors d'oeuvres, a cash bar and some special entertainment.

## Friday, January 22, 2010 – Fort Garry Hotel

8:30am – 2:00pm – **Registration** – Provencher Room

8:30am – 5:30pm – **Exhibitors Trade Show** – Provencher Room

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9:00am – 9:30am – **Continental Breakfast** – Provencher Room

## Morning Continuing Legal Professional Development Programs

9:30am – 11:30am – **Making Sense of Statutory Interpretation**

Looking for practical, no-nonsense tips on arguing statutory interpretation in court? Come learn how to persuade a judge that your interpretation of a statute is the correct one. Dr. Randal Graham, Professor, University of Western Ontario Faculty of Law, author of *Statutory Interpretation: Theory and Practice*, will set out his simple and pragmatic unified approach. Heather Leonoff, Q.C., Director, Constitutional Law Branch, Manitoba Justice, will discuss practical strategies for arguing statutory interpretation in court, drawing on her extensive experience and expertise in this area. Madam Justice Freda Steel, Manitoba Court of Appeal, will provide a judicial perspective on these approaches and highlight recent Manitoba cases of interest. All lawyers whose practices involve interpreting statutes will benefit from attending this unique presentation.

Speakers: - Dr. Randal Graham, University of Western Ontario Faculty of Law  
- Heather Leonoff, Q.C., Manitoba Justice – Constitutional Law Branch  
- Madam Justice Freda Steel, Manitoba Court of Appeal

Moderator: - Darla Rettie, Pitblado LLP

Sponsored by the Legal Research Section

9:30am – 11:30am – **Compensation for Impacts on Aboriginal & Treaty Rights**

Few cases and academic perspectives are readily available on quantifying impacts on Treaty and Aboriginal rights. Often, compensation is used as a means to address those impacts. Our expert panel will enthusiastically debate the theoretical justifications for compensation and the proposed approaches to quantifying impacts. Discussion of this emerging area of law will be useful to all practitioners of aboriginal law, whether they practice civil litigation or corporate/commercial law, in the public or private sectors.

Speakers: - Professor Cherie Metcalf, Queen's University Faculty of Law  
- Professor Brenda Gunn, University of Manitoba Faculty of Law  
- Bob Adkins, Thompson Dorfman Sweatman LLP

Moderator: - Allison Fenske, Thompson Dorfman Sweatman LLP

Sponsored by the Aboriginal Law Section

9:30am – 11:30am – **Damages**

Having trouble quantifying damages? How do you prove damages in the hard to quantify cases such as brain injury, soft tissue injuries or cases involving whiplash? When do you need an expert? When are aggravated or exemplary damages appropriate? What damages are appropriate in the labour/employment context? What new and noteworthy cases govern awards of damages? All of these are questions that civil litigators face on a daily basis. This session offers a great opportunity for lawyers to obtain information on the law on damages, particularly those practicing civil litigation.

Speakers: - Grant Mitchell, Q.C., Taylor McCaffrey LLP  
- Helga Van Iderstine, Aikins, MacAulay & Thorvaldson LLP

Moderator: - Bernice Bowley, Fillmore Riley LLP

Sponsored by the Civil Litigation Section

9:30am – 11:30am – **Raising Capital for Small Business Clients**

Do you often encounter clients with limited knowledge or resources on how to raise capital for a new or existing business? You can assist them on the road to success. Besides conventional bank lending, an experienced panel will discuss other financing options. A panel of experts in their field will discuss such issues as: the various stages of equity investing and how businesses can attract venture capital investors; possible exemptions for financing small businesses without having to comply with securities law prospectus and registration requirements and financing, venture capital and consulting services for small to medium-sized Canadian businesses. With a diversity of speakers, this session will certainly be beneficial to corporate/commercial practitioners.

Speakers: - John Proven, Vice-President of Investments, Growthworks  
- Jan Lederman, Thompson Dorfman Sweatman LLP  
- Tony Zuschtok, Branch Manager of Business Development Bank of Canada, Winnipeg West Branch

Moderator: - Michael Jason, Richardson International Limited

Sponsored by the Business Law Section

10:30am – 10:45am – **Break** – Provencher Room

Sponsored by the Canadian Bar Insurance Association

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11:45am – 1:45pm – **Awards Luncheon** – Crystal Ballroom

Featuring presentations of the 2010 MBA Distinguished Service Award, the 2010 Pro Bono Award and the 2009 MBA Council Awards.

Sponsored by the Canadian Bar Association Financial Services and Canadian Bar Insurance Association

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## Afternoon Continuing Legal Professional Development Programs

2:00pm – 4:00pm – **French-Language Advocacy in Manitoba**

In 2008, the *Criminal Code* was amended to ensure that people are asked, during their first court appearance, which official language they want to use. *The Manitoba Act* (1870), which forms part of Canada's Constitution, also provides that individuals can access Manitoba courts in English and French. Manitoba laws are enacted in English and in French – lawyers are obligated to assess whether one version of the law may be interpreted more favourably in one language or the other.

What should you do when a client who is obviously uncomfortable with the English language and who would better understand the process in French wishes to retain your services? This session will discuss the legal and historical background to French as an official language in Manitoba courts and give a practical overview for counsel explaining how and when to invoke a client's

language rights. A brief overview of the *R. v. Rémillard* trial and appeal will be presented, given the substantive language rights issues that it raised and the practical implementation of hearing the case entirely in French.

This session is recommended for all lawyers interested in knowing more about French-language proceedings. It will be conducted in English in order to make it more easily accessible to a broader audience.

Speakers: - **Guy Jourdain**, Senior Advisor, French Language Services Secretariat  
- **Antoine Hacault**, Thompson Dorfman Sweatman LLP  
- **Aimée Craft**, Public Interest Law Centre - Legal Aid Manitoba  
Moderator: - **Madame Justice Marianne Rivoalen**, Court of Queen's Bench

Sponsored by the **l'Association des juristes d'expression française du Manitoba**

#### 14 h à 16 h - **L'utilisation du français devant les tribunaux du Manitoba**

En 2008, le *Code criminel* a été modifié afin d'assurer que les justiciables soient avisés, dès leur première comparution, du fait qu'ils ont droit d'utiliser la langue officielle de leur choix. *Loi de 1870 sur le Manitoba*, qui fait partie de la Constitution du Canada, prévoit aussi que les justiciables ont accès aux tribunaux du Manitoba en français ou en anglais. Les lois du Manitoba sont promulguées en français et en anglais - les avocats sont obligés de déterminer si une version de la loi pourrait être interprétée de façon plus favorable dans une langue ou l'autre.

Que devriez-vous faire si un client, qui n'est évidemment pas à l'aise dans la langue anglaise, et qui comprendrait mieux la procédure en français, cherche à retenir vos services? Cette séance abordera les perspectives historiques et juridiques qui ont fait que le français est une des langues officielles des tribunaux du Manitoba et expliquera de façon pratique quand un juriste devrait invoquer les droits linguistiques de son client. Il y aura un exposé du **procès** et de **l'appel de la cause R. c. Rémillard** du point de vu du droit substantif dans le domaine des droits linguistiques ainsi que les questions d'ordre pratique qu'il faut prendre en considération lorsqu'on entend une cause entièrement en français.

Cette séance est recommandée à tous les avocats intéressés à en connaître davantage sur les procédures en français. La séance sera donnée en anglais afin de la rendre accessible à un plus grand auditoire.

Conférenciers : - **Me Guy Jourdain**, conseiller spécial, Secrétariat aux affaires francophones  
- **Me Antoine Hacault**, Thompson Dorfman Sweatman srl  
- **Me Aimée Craft**, Centre juridique de l'intérêt public - Aide juridique Manitoba

Moderatrice - **Madame la juge Marianne Rivoalen**, Cour du Banc de la Reine

Commandité par **l'Association des juristes d'expression française du Manitoba**

#### 2:00pm - 4:00pm - **Detention and Section 24(2) of the Charter: Where do we go from here?**

Following the recent landmark Supreme Court of Canada decisions on detention and exclusion of evidence in *R. v. Suberu* and *R. v. Grant*, many criminal lawyers and judges are left wondering what this will mean for future criminal trials. When are protections under *Charter* sections 9 and 10 triggered? What happens if the police obtain evidence in violation of these rights? Do these cases represent a huge departure from *Collins*? What impact will these decisions have for criminal prosecutions, defence theories and future jurisprudence? In this session, leading experts in criminal and constitutional law will discuss the significance of these decisions and provide their insights on how these decisions might be interpreted by Manitoba courts and suggest practical guidelines for Manitoba criminal practitioners. This session should be of interest to all criminal practitioners.

Speakers: - **Professor Don Stuart**, Queen's University  
- **Eugene Szach**, Manitoba Justice - Constitutional Law Branch  
Moderator: - **Cynthia Devine**, Manitoba Justice - Constitutional Law Branch

Sponsored by the Constitutional/Human Rights and the Criminal Justice Sections

#### 2:00pm - 4:00pm - **Trends in Technology Contracting**

Technology contracts involve unique issues. To help guide counsel through the minefield of technology contract drafting, is a leading authority in Technology and Intellectual Property Law, George Takach, McCarthy Tetrault (Toronto). He will share his expertise in the ever-changing area of technology contracting, making this a session that should not be missed by corporate/commercial and technology and intellectual property practitioners.

Speaker: - **George Takach**, McCarthy Tetrault (Toronto)  
Moderator: - **Silvia de Sousa**, Thompson Dorfman Sweatman LLP

Sponsored by the Technology & Intellectual Property Law Section

#### 2:00pm - 4:00pm - **Tax Law Refresher**

Are you seeking useful tax tips for your practice? Are you aware of the tax traps to avoid? Robert Sly, Aikins, MacAulay & Thorvaldson LLP and Paul Grower, Fillmore Riley LLP, review tax and GST implications for practitioners of civil litigation, corporate/commercial law, criminal law, employment law and family law.

Speakers: - **Robert Sly**, Aikins, MacAulay & Thorvaldson LLP  
- **Paul Grower**, Fillmore Riley LLP

Moderator: - **Candray Mehkary**, Mercier Dueck

Sponsored by the Young Lawyers' Section

#### 3:00pm - 3:15pm - **Break** - Provencher Room

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**CBIA | AABC**

#### 4:00pm - 5:00pm - **Presidents' Wind-Down Reception** - Provencher Room

Immediately following the afternoon sessions, come and relax with MBA President Anthony J. (Tony) Kavanagh and CBA President, **Kevin Carroll, Q.C., L.S.M.**

Sponsored by The Counsel Network



**THE COUNSEL NETWORK**

#### **Saturday, January 23, 2010 - Fort Garry Hotel**

9:00am - **MBA Council Continental Breakfast** - Gateway Room

10:00am - **MBA Council Meeting** - LaVerendrye Room

12:30pm - **MBA Council Luncheon** - Gateway Room

#### **Hotel Accommodations:**

A block of rooms has been reserved at the **Fort Garry Hotel**, 222 Broadway, Winnipeg, MB at a rate of \$129.00 (single or double). Reserve directly by calling (204) 942-8251/1-800-665-8088 and quote Group Code 10773N. The rate is in effect until January 8, 2010.

#### **Your 2010 Mid-Winter Organizing Committee**

*Co-Chairpersons:*

**Melanie Bueckert**, Manitoba Court of Appeal  
**Sofia Mirza**, Fillmore Riley LLP

*Committee Members:*

**Todd Andres**, Pitblado LLP  
**Karlee Blatz**, Thompson Dorfman Sweatman LLP  
**Jason Harvey**, Tapper Cuddy LLP  
**Lisa LaBossière**, Myers Weinberg LLP  
**Cynthia Lau**, Manitoba Public Insurance  
**Madeline Low**, Hill Sokalski Vincent Walsh Trippier  
**Ken Mandzuik**, D'Arcy & Deacon LLP  
**Kathleen McCandless**, Hill Sokalski Vincent Walsh Trippier  
**Andrew Moreau**, Taylor McCaffrey LLP  
**Melissa Burkett**, Aikins, MacAulay & Thorvaldson LLP  
**Lisa Sumka**, D'Arcy & Deacon LLP  
**Mark Toews**, Deeley Fabbri Sellen Law Corporation

# The MBA 2010 Mid-Winter Meeting

## Thursday, January 21, 2010 to Saturday, January 23, 2010

**Fort Garry Hotel, 222 Broadway, Winnipeg, MB**

### REGISTRATION FORM

#### Continuing Legal Education Programs - Friday, January 22, 2010

	<u>Member</u>	<u>Non-Member</u>	<u>Student/Young Lawyer*</u>
<b>Full Day Registration</b>	\$210.00	\$315.00	\$131.25
<b>Half Day Registration</b> <i>(Please Circle)</i>	\$147.00 <i>am or pm</i>	\$220.50 <i>am or pm</i>	\$84.00 <i>am or pm</i>

\*Young Lawyer rate is available to MBA Members practising 5 years or less.

All prices include GST #R126095728

**Full Day Registration:** Includes continental breakfast, entrance to exhibitors trade show, one morning education session, one afternoon education session, MBA Awards Luncheon, session materials and Presidents' Wind-Down Reception.

**Half Day Registration:** Includes continental breakfast (am only), entrance to exhibitors trade show, one morning education session (am only) or one afternoon education session (pm only), MBA Awards Luncheon, session materials and Presidents' Wind-Down Reception.

**Please note the Bench & Bar Reception is a separately ticketed event and is NOT included in the Full Day or Half Day registration.**

**Please indicate CLE choice:**

- 9:30am - 11:30am - Making Sense of Statutory Interpretation
- 9:30am - 11:30am - Compensation for Impacts on Aboriginal & Treaty Rights
- 9:30am - 11:30am - Damages
- 9:30am - 11:30am - Raising Capital for Small Business Clients
- 2:00pm - 4:00pm - French-Language Advocacy in Manitoba
- 2:00pm - 4:00pm - Detention and Section 24(2) of the Charter
- 2:00pm - 4:00pm - Trends in Technology Contracting
- 2:00pm - 4:00pm - Tax Law Refresher



Is this your first Mid-Winter?

**YES or NO**

Please check if you would prefer to receive your session materials on CD.

Are you planning to attend the MBA Awards Luncheon? If you **cannot** attend the luncheon, please indicate and we will donate your ticket to a law student. The luncheon is included in the costs of the half day and full day registration fees. **YES or NO**

### Individual Event Tickets

	<u>Member</u>	<u>Non-Member</u>	<u>Student/Young Lawyer*</u>
<b>Bench &amp; Bar Reception</b> (number of tickets required)	\$31.50	\$47.25	\$21.00
<b>MBA Awards Luncheon</b> (number of additional tickets required)	\$52.50	\$78.75	\$52.50

All prices include GST #R126095728

\*Young Lawyer rate is available to MBA Members practising 5 years or less.

Enclose Payment and Send to:

**Manitoba Bar Association**

1450 – 363 Broadway  
Winnipeg MB R3C 3N9  
or Fax: (204) 927-1212

Refunds: Cancellations will be accepted by fax or email (admin@cba-mb.ca) until January 18, 2010, subject to a 15% administrative charge. NO REFUNDS will be made if notification is received after January 18, 2010.

**PERSONAL INFORMATION CONSENT**

The MBA Mid-Winter program is supported by preferred suppliers, sponsors and exhibitors. Subject to the following paragraph, I understand that the provision of contact information on this form constitutes my consent to such information being disclosed to the preferred suppliers, sponsors and exhibitors of this program. For further information about the CBA's treatment of personal information, see its members Privacy Policy at [www.cba.org](http://www.cba.org).

By checking this box , I do not wish my contact information disclosed to the preferred suppliers, sponsors and exhibitors of this program.

Name (to appear on badge): _____	
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Phone: _____	Fax: _____
Dietary Concerns: _____	
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