May 13 & 14, 2014, Toronto

9th Essentials of Commercial Contracts

Learn practical drafting techniques

Workshop Included: Commercial Contract Dispute Resolution

Course Leader
Frank DeLuca, Cassels Brock & Blackwell LLP

J.R. Beaudrie, McMillan LLP

George Begic, Deloitte LLP

Richard Corley, Goodmans LLP

Jill P. Fraser, Aird & Berlis LLP

Alan Gahtan, Gahtan Law Office

Mark Johnson, Infusion

Rodger Madden, TELUS Communications Company

Julie K. Parla, McCarthy Tétrault LLP

Pierre Soudard, Norton Rose Fullbright Canada LLP

Stephen Spracklin, Cisco Systems Canada Co.

Marc Valencia, Corby Spirit and Wine Limited

Omar Wail, Torys LLP

participating organizations

Aird & Berlis LLP
Cassels Brock & Blackwell LLP
Cisco Systems Canada Co.
Corby Spirit and Wine Limited
Deloitte LLP
Gahtan Law Office
Goodmans LLP
Infusion
McCarthy Tétrault LLP
McMillan LLP
Norton Rose Fullbright Canada LLP
TELUS
Torys LLP

who should attend

Corporate/Commercial Lawyers, Paralegals, Contract Managers

course highlights

• Key issues with respect to the law of contract
• Key principles of good drafting technique: commercial contract format and structure
• Customizing agreements to reflect your objectives
• Troubleshooting during the contracting process
• Recent and impending legislation impacting contract drafting
• Overview of the practical use and application of boilerplate clauses
• Drafting techniques to improve your protection

Applicable toward CPD Requirement

“Presentations were hands-on and practical.”

“Benefitted by looking at the drafting process from a more risk-based standpoint.”

“Helped give context to the direction of contract content and overall broadened my knowledge base.”
FACULTY

COURSE LEADER

FRANK DELUCA
Frank DeLuca is a Partner at Cassels Brock & Blackwell LLP. He has extensive experience in negotiating support, arrangement and voting agreements for public acquisitions and sales and purchase agreements for private acquisitions.

J.R. BEAUDRIE
J.R. Beaudrie is a Partner at McMillan LLP. His practice includes drafting and negotiating commercial agreements in a wide variety of industries.

GEORGE BEGIC
George Begic is Assistant General Counsel at Deloitte LLP. He advises in commercial transactions such as M&As and complex consulting and IT implementation agreements.

RICHARD CORLEY
Richard Corley is a Partner at Goodmans LLP. He has over 25 years of experience in complex outsourcing transactions, technology M&A, joint ventures, cleantech and technology competition law matters.

JILL P. FRASER
Jill Fraser is a Partner at Aird & Berlis LLP. She has more than 15 years of experience in corporate and commercial lending transactions.

ALAN GAHTAN
Alan Gahtan is Founder at Gahtan Law Offices. His practice emphasizes technology contracting, outsourcing, Internet and electronic commerce issues.

MARK JOHNSON
Mark Johnson is General Counsel at Infusion, a global software consulting firm with several subsidiaries and offices around the world.

ROGER MADDEN
Rodger Madden is Associate General Counsel with the Legal Services Department at TELUS Communications Company. He provides internal advice in the negotiation, closing and implementation of various transactions.

JULIE K. PARLA
Julie Parla is a Partner at McCarthy Tétrault LLP. Her practice includes infrastructure bid/tender and procurement processes and construction disputes.

PIERRE SOULARD
Pierre Soulard is a Partner at Norton Rose Fulbright Canada LLP, practising securities and corporate law.

STEPHEN SPRACKLIN
Stephen Spracklin is Senior Corporate Counsel with Cisco Systems Canada Co.

MARC VALENCIA
Marc Valencia is General Counsel, Corporate Secretary and Vice President, Public Affairs, for Corby Spirit and Wine Limited.

OMAR WAKIL
Omar Wakil is a Partner at Torys LLP and chair of the firm’s Foreign Investment Review Group.

CO-LECTURERS

PRE-TRANSACTION AND EARLY STAGE AGREEMENTS
Negotiating and drafting effective and enforceable contracts requires that you be prepared to address all contingencies that are likely to arise from the commercial relationship. This session will key considerations to be addressed when developing and negotiating pre-transaction and early stage agreements.

- Pre-contractual documents and enforceability
- How and when to use a letter of intent
- Disclosure obligations and the protection of confidential information
- Binding vs. non-binding pre-transaction covenants
- Risks associated with the use of early start agreements

DRAFTING NON-COMPETITION PROVISIONS
Courts are reluctant to enforce non-compete agreements that are unreasonable or not carefully drafted. This session will examine important factors surrounding these delicate but important agreement provisions.

- Legal context of confidentiality and non-competition agreements
- Key terms and conditions
- “Reasonableness” in drafting non-competition provisions
- Understanding practical considerations in drafting confidentiality agreements

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 including 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.

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

- This program can be applied towards 9 of the 12 hours of annual Continuing Professional Development (CPD) required by the Law Society of Upper Canada. Please note that these CPD hours are not accredited for the New Member Requirement.
- For Alberta lawyers, consider including this course as a CPD learning activity in your mandatory annual Continuing Professional Development Plan as required by the Law Society of Alberta.
- Attendance at this course can be reported as 11 hours of Continuing Professional Development (CPD) to the Law Society of B.C.
- The Barreau du Québec automatically accredits training activities held outside the Province of Quebec and accredited by another Law Society which has adopted MCLE for its members.
RISK ALLOCATION IN COMMERCIAL AGREEMENTS

This session will examine the process of identifying, analyzing, responding to and controlling risks inherent in business negotiations.

- Assessing risks prior to entering contracts
- Risk identification process and risk registers
- Understanding your client’s risk tolerance
- Practical ways to manage risks inside and outside of contracts

RIGHTS, OBLIGATIONS, EXCLUSIONS AND LIMITATIONS

The focus of this session will include a comprehensive examination of exclusionary and limitation clauses. These types of terms are included in most types of contracts and can have a significant impact on the remedies that are available if the parties do not perform as promised. The session will examine the various techniques that are available to shift or negate responsibility.

- Allocation of responsibility clauses
- Exclusive remedy provisions
- Exclusions of and limitation of liability clauses, and appropriateness of certain exceptions
- Indemnification clauses

LEGAL FRAMEWORK FOR DRAFTING AGREEMENTS

This panel discussion will examine the legal framework, including legislative and judicial developments, impacting the drafting of various types of commercial agreements.

- Overview of current legal framework for commercial agreements
- Recent and impending legislation impacting contract drafting
- Trends in regulations affecting commercial agreements
- Protecting your company from litigation and anticipating legal pitfalls

DRAFTING OPINIONS FOR COMMERCIAL TRANSACTIONS

Ongoing legislative developments, an increase in e-commerce and cross-border deals being entered into by businesses of all sizes have heightened the need for the preparation of legal opinions in the commercial agreement drafting process. This session will examine the opinion drafting process.

- Best practices for crafting opinions: key considerations
- Types of opinions sought by counsel
- Drafting opinions for secured financing transactions
- Risks involved in opinion drafting

COMPETITION ACT AND INVESTMENT CANADA ACT PROVISIONS IN M&A AGREEMENTS

This presentation will explore best practices in negotiating & drafting effective Competition Act and Investment Canada Act conditions, representations and covenants used in M&A agreements.

- The Competition Act and Investment Canada Act merger review process
- Understanding the parties’ commercial objectives in regulatory provisions
- Risk-shifting techniques
- Case studies from recent M&A agreements

DRAFTING IT AGREEMENTS

The pervasiveness of information technology has made knowledge of the IT contracting process ever more necessary. This session will discuss key considerations in IT service agreements.

- Key legal issues and negotiating areas in IT services contracts
- Contract structures in the IT world
- Statements of work and the lawyers role
- Other issues: privacy, background checks, export controls, third party and open source software

PRACTICAL DRAFTING TECHNIQUES FOR CONTRACTS AND AGREEMENTS

This discussion provides a practical overview of key considerations when drafting and negotiating commercial contracts.

- Recent developments in the law of contract
- Key principles of good drafting technique
- The importance of boilerplate provisions
- Effective use of limitation of liability clauses
- Troubleshooting during the contracting process
- Determining what warranties and indemnities are needed

COMMERCIAL CONTRACT DISPUTE RESOLUTION

It is prudent to establish clear and effective strategies for resolving disputes in any commercial agreements. This workshop will explore the prominent issues faced in resolving disputes in business contracts and will provide practical strategies for avoiding and winning such disputes.

- Drafting dispute resolution clauses: deciding on a model
- Determining what warranties and indemnities are needed
- Resolving business disputes through litigation or alternatives
- Workings of the doctrine of frustration
- Inclusion of constructive performance obligations
Strategies in Drafting Contractual Provisions
Kathy I. Pawluk
Value Creation Inc. - Value Creation Group of Companies

Drafting International Commercial Agreements
Bryan C. Haynes
Bennett Jones LLP

Drafting & Use of Boilerplate Clauses
Charity L. Smith
ConocoPhillips Canada

Risk Allocation in Commercial Agreements
Hanan Campbell
EPCOR Utilities Inc.

Drafting Non-Competition Provisions
Andrew G. Kay
WestJet Airlines

Legal Framework for Drafting Commercial Agreements
Laura M. Safran, Q.C.
Davis LLP

Pre-Transaction & Early Stage Agreements
D. George Kelly
Borden Ladner Gervais LLP

Drafting Rights, Obligations, Exclusion & Limitation Clauses
J. Sebastien A. Gittens
Bennett Jones LLP

Exclusion Clauses: Impact of Court Rulings
Glen B. Scott, Q.C.
Brownlee LLP

Key Issues for IT Agreements
Elisabeth Symons
Miller Thomson LLP

Negotiating Multi-Jurisdictional Commercial Agreements
Chika B. Onwuekwe
Trican Well Service Ltd.

Case Study: Practical Considerations in Commercial Contracts
Sean S. Caragata
Cisco Systems

Negotiating Multi-Licensor Entertainment Contracts
Susan Kelly
CBC Television

IT Law and Outsourcing Agreements
Matthew Peters
McCarthy Tetrault LLP

Drafting Opinions for Commercial Transactions
Christopher M. Wolfenberg
Macleod Dixon LLP

Commercial Contract Dispute Resolution
Michael Mestinsek
Stikeman Elliott LLP

Documentation for Project Finance: Contracts and Guarantees in Project Finance
Shamshad Madhok
PricewaterhouseCoopers LLP

Outsourcing Contracts
C. Ian Kyer
Fasken Martineau DuMoulin LLP

Renegotiating Contracts to Fix or Renew
Duncan C. Card
Bennett Jones LLP

Software Contracts
Eric Boehm
Borden Ladner Gervais LLP

Electronic Contracts
Parna Sabet-Stephenson
Blake, Cassels & Graydon LLP

Preparing Bidding Documents: Reducing the Potential for Disputes in Procurement Contracts
Richard Wong
Osler, Hoskin & Harcourt LLP

Negotiating and Drafting Cloud Computing Contracts
Andrew Jones
Sim & McBurney / Sim, Lowman, Ashton & McKay LLP

Practical Drafting Techniques for Contracts and Agreements
C. Ian Kyer
Fasken Martineau DuMoulin LLP

Practical Negotiating Techniques for Contracts & Agreements
Constance L. Crosby
Cisco Systems

Registration: To reserve your place, call Federated Press toll-free at 1-800-363-0722.

Location: Novotel Toronto Centre Hotel, 45 The Esplanade, Toronto, ON, M5E 1W2

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 5:00 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 received prior to April 30, 2014. No refunds will be issued after this date.

Discounts: Federated Press has special team discounts. Groups of 3 or more from the same organization receive 15%. For larger groups please call.

TO REGISTER FOR 9TH ESSENTIALS OF COMMERCIAL CONTRACTS

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

# ___________________________ Expiration date: ______ / ______

Signature: ___________________________

Payment enclosed: ☐ Please invoice. PO Number: ___________________________

WHEN CALLING, PLEASE MENTION PRIORITY CODE: 9ECC1405/E

PAYMENT MUST BE RECEIVED BY MARCH 24, 2014

REGISTRATION COSTS

NUMBER OF PARTICIPANTS: ___________________________

COURSE: $1975

COURSE + PROCEEDINGS CD-ROM: $1975 + $175 = $2150

PROCEEDINGS CD-ROM: $599

PROCEEDINGS plus multimedia presentations: $799

NOTE: Please add 13% HST to all prices.

Proceedings CD-ROM will be available 30 days after the course takes place.

Enclose your cheque payable to Federated Press in the amount of: ___________________________

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For additional delegates please duplicate this form and follow the normal registration process.