

Ad IDEM
CANADIAN MEDIA LAWYERS ASSOCIATION
2024 Annual Conference
October 25-26, 2024
Omni King Edward Hotel
Toronto, ON

Panels and Topics

Friday, October 25, 2024

9:10 – 10:40

Cross Country Check-Up

A conference favourite! In this session, the CMLA's regional board representatives will take us through some of this country's important media law decisions from 2023/2024.

Moderator: Tess Layton (Reynolds, Mirth, Richards and Farmer)

Atlantic: David Hutt (Burchell Wickwire Bryson LLP)

Quebec: Veronique Belley (CBC/Radio-Canada)

Ontario: Justin Safayeni (Stockwoods)

Prairies: Sean Ward (Reynolds, Mirth, Richards and Farmer)

B.C.& Federal: Kaley Pulfer (DMG Advocates)

11:00 – 11:45

New Developments in Criminal Code Provisions

Affecting the Media – S. 645/648 and 486.4(4)

In the recent decision of La Press v. Quebec the Supreme Court of Canada interpreted sections 648(1) and 645(5) of the Criminal Code to mean that an automatic publication ban will be imposed over the majority of pre-trial motions in criminal cases. What has been the impact of this decision on pre-trial motions? Are any pre-trial motions being reported by the media? Are judges hearing pre-trial motions following the SCC's guidance to indicate that a motion is being heard under s. 645(5) and therefore an automatic publication ban applies? In another recent development, the Criminal Code was amended to allow sexual assault victims who are subject to a publication ban on their identity to voluntarily disclose their identity without having to formally lift the publication ban order. What are the practical implications of this amendment for journalists? How should disclosure of the victim's identity be made to comply with the statute? Does a victim have to be the one to disclose it? Can the media disclose their identity? Can the victim be quoted in the media? What do you do if there are multiple victims and only one wants to be identified?

Moderator: Iain MacKinnon (Linden & Associates)

Panelists: Sean Moreman (Legal Counsel, CBC) and others TBD

11:45-12:15

The decision and likely impact of the “Secret Trial” case

It was known as the “Secret Trial” case. Media found out that a case involving a police informant seemed to be heard behind closed doors. No docket. No records of the case. A media coalition challenged that process, and the Supreme Court of Canada rendered judgment last June. It said that the case was not secret. However, as the Supreme Court framed it, core Canadian values were at stake. It was also one of the most recent Supreme Court of Canada cases, in the wake of the Dagenais and Mentuck decisions, that truly addressed the open court principle and its importance in Canadian democracy. The panelists, who were all involved in this file, will explore the case, the arguments presented, the “behind-the-scenes” action that resulted in the judgment, and the early impact this case seems to be having on Canadian jurisprudence.

Moderator: Christian Leblanc (Fasken)

Panelists: Patrick Bourbeau (Vice President, Legal Affairs @ La Presse),
Véronique Belley (Legal counsel, CBC)

12:15 – 1:30

Keynote Speaker: Connie Walker

Connie Walker is an award-winning Indigenous journalist, named one of Time’s 100 most influential people of 2024. Connie’s investigative podcast from Gimlet Media and Spotify Studios, “Stolen: Surviving St. Michael’s”, won both a Pulitzer Prize and Peabody Award. It is considered one of the most comprehensive investigations into a single residential school. Connie’s journalism and storytelling helps listeners understand both the tragedy of residential schools and the role of truth-seeking and reconciliation. Her podcast series, Stolen, was named one of the best podcasts of the year by The New Yorker, The Atlantic, Esquire, and Vulture and featured in The New York Times, Vogue, and Rolling Stone. Prior to joining Gimlet Media in 2020, Walker spent nearly two decades as a CBC reporter and host. She created and led the public broadcaster’s Indigenous Unit in 2013 and was part of the team of reporters whose work exposed the crisis of missing or murdered Indigenous women. They were recognized as a finalist for the Michener Award and awarded the RTDNA’s Adrienne Clarkson Award.

1:30 – 2:30

Protecting Confidential Sources: Have we made progress since the Chamberland Commission and since the *Journalistic Sources Protection Act* came into force?

In this hour-long session, panelists will discuss how we can better navigate source protection when responding to subpoenas and warrants tied to criminal investigations and charges. What impact do allegations of sexual violence have? How can Canadian media organizations and journalists learn from our American media law colleagues?

Moderator: Katarina Germani (Legal counsel, CBC)

Panelists: Samara Sectar (Addario Law), Justin Manoryk (Torstar), Nathan Siegel (Davis Wright Tremaine), Judy Trinh (Journalist, CTV)

2:45-3:30

Media access in administrative law proceedings

We know about open court principles and section 2(b) rights within court proceedings. But how far does the open court principle and section 2(b) of the Charter go in assisting the media to gain access to tribunal proceedings, both in terms of hearings and documents? What analytical framework applies to the question of media access in the administrative law context, in the wake of Doré and Sherman Estate? What common law, statutory or constitutional arguments can be raised in support of media access? How have courts and tribunals been grappling with these thorny issues in different Canadian jurisdictions?

Moderator: Justin Safayeni (Stockwoods LLP)

Panelists: Iris Fischer (Blakes Cassels & Graydon LLP), Matthew A. Woodley, (Reynolds Mirth Richards & Farmer LLP)

3:30-4:30

Responsible Communication in the Public Interest – 15 years since *Grant v Torstar*:

This panel, comprised of media lawyers and journalists, will reflect on how the defence of responsible communication has been applied by courts in the 15 years since the SCC's seminal decision recognizing this important defence. Topics will include the kinds of cases in which the defence is being asserted and/or applied, how courts are applying the elements of the defence, the use of expert evidence in assessing the defence, and how it has impacted the day-to-day work of journalists and other publishers in Canada.

Moderator: Kaley Pulfer (DMG Advocates)

Panelists: Dan Burnett (Owen Bird Law), Andrea Gonsalves (Stockwoods LLP), Allya Davison (Executive Producer, CBC: fifth estate), and Sara Mojtehdzadeh (Journalist, Toronto Star)

4:30 - 5:00
6:30 & 7:45pm

ANNUAL GENERAL MEETING - Members only
Lapinou Bistro - Cocktail Reception & Dinner
642 King Street W.
Toronto ON, M5V 1M7

- Extra Dinner tickets can be purchased here [Extra Dinner Ticket](#)

Saturday, October 26, 2024

9:00 – 10:00

Pre-Pub Challenge

In this interactive session, we'll put your pre-publication vetting skills to the test. Through a series of fact patterns, you'll decide whether the news/non-fiction story is legally "fit to print"

Moderator: Dan Burnett (Owen Bird Law)

10:20-11:35

International Media Law Spotlight
Recent developments in the US and the UK

Distinguished lawyers from the United States, the United Kingdom and Australia will provide an update on notable recent developments in the areas of defamation, access and privacy law in their respective jurisdictions.

Moderator: Ryder Gilliland (DMG Advocates)

Panelist: Charles (Chuck) Tobin (Practice Leader of Ballard Spahr's Media and Entertainment Law Group), Sylvia Alcarraz, (Denton's - Australia), Elizabeth Morley (Howard Kennedy - UK)