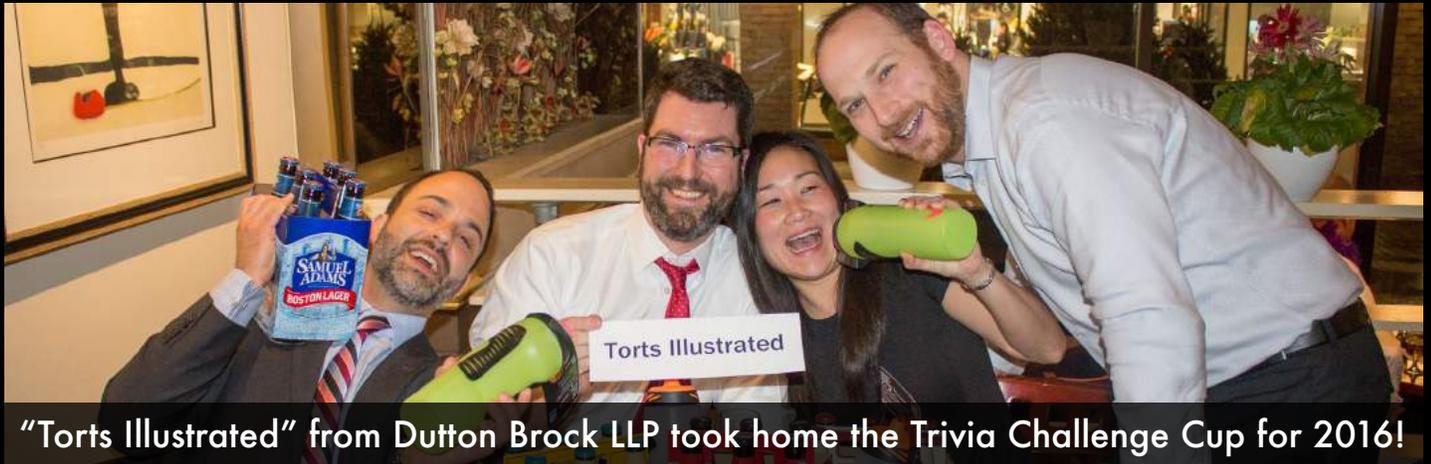




# Keeping Tabs

Monthly News from The Young Advocates' Standing Committee

Sudbury Law | Interview | Art Law | Around TAS | Upcoming Events



"Torts Illustrated" from Dutton Brock LLP took home the Trivia Challenge Cup for 2016!

## CHAIR CHAT



BY: YASHODA RANGANATHAN

When I went to court on my own for the first time as an advocate, I was not worried about my legal arguments or preparation. I was worried about just about everything else. What do I do when I come into the courtroom? Where should I stand? How should I stand? Were my tabs on right? (Years later I learned, to my chagrin, they were not.) As time went on, seeing some familiar faces—new friends in the same boat, court clerks and eventually judges and

masters that I recognized—helped to ease some new lawyer jitters. Events like the upcoming Wine and Cheese with the Bench on [April 21](#) and the recent Calgary Bench and Bar reception on March 15 give young advocates the unique opportunity to socialize with members of the bench outside of the courtroom and in a relatively informal environment. A friendly chat with a judge or master may help take the worry out of those early court appearances. I encourage all young advocates to take advantage of these types of social opportunities offered by The Advocates' Society. They really make you feel part of the community of advocates – and may even ease some jitters next time you are in court!

*Yashoda*

*The Young Advocates' Standing Committee ("YASC") is a standing committee of The Advocates' Society with a mandate to be a voice for young advocates (advocates who are ten years of call or fewer) within the Society and within the profession. We do this through networking/mentoring events, by publishing articles by and for young advocates, and by raising issues of concern to young advocates as we work with the Society's Board of Directors.*



## SUDBURY LAW

### PRACTICING IN SUDBURY; A NORTHERN PERSPECTIVE ON LAW



JORDAN DUPLAISSE,  
WEAVER, SIMMONS LLP

Approximately three and a half years ago, I started my career in Sudbury on a visit home from Ottawa at what would luckily for me become an unscheduled job interview with Mr. James Simmons. Three hours later I was the newest addition to Weaver, Simmons LLP. Mr. Simmons and I were the only two people to know that I had just joined the firm. He gave me a tour of the firm along with a handful of Weaver, Simmons LLP branded fishing lures (which were subsequently used to catch fish!).

Practising law in the North is unique, because Northern Ontario lawyers have a strong sense of camaraderie. You will inevitably bump into your colleagues and clients, whether it be in the office, the courtroom, grocery store or otherwise. This means that you always need to treat your colleagues and clients with dignity and respect because Sudbury is too small to avoid seeing them. You cannot afford to burn bridges, as there are not many to burn. You will someday need a favour, be it an adjournment or a bit of advice from an adversary, so being easy to get along with and working with—rather than against—other members of the local Bar is critical to surviving what

can be a hectic practice at times.

When I began at Weaver, Simmons, I did not have much of an idea of what to expect in terms of work other than I was to be doing civil litigation. What that meant was also unknown to me but I quickly realized that I was a “real” lawyer and had a lot of things to figure out. There is much more to the legal practice than I had envisioned: There is the business; the client relationships; the time management; the travel; the interpersonal relations with other lawyers; and, of course, learning the law, which is just a small slice of the pie.

With the freedom to run with files and learn on the fly, Northern lawyers (at least at our firm) gain experience quickly. In my first three years of practice I have litigated nine small claims trials, have appeared countless times at the SCJ for Motions and Applications, and have appeared at the Divisional Court for appeals. It’s even possible that I may be the only Registered Trade-mark Agent in Sudbury. Another Northern difference is that in some smaller communities, trials will be held in schools, town halls, or even arenas. Sometimes make-shift courtrooms are necessary but you learn to appreciate this and get usually get a chuckle at the expense of out-of-town counsel who are not used to such set ups.

Working with the Weaver, Simmons team in Sudbury has taught me that building and maintaining relationships are the core of a successful practice and of the utmost importance. It has also provided me with the benefit of working with lawyers who appreciate the joys of having work-life balance. For example, our own Mr. Simmons travels throughout Northern

Ontario with his cross-country skis to tackle familiar trails before the day break. While the majority of us here wish the snow away, Mr. Simmons, never fading, set a personal record for most days skied over last year’s winter—and made sure we all knew it.

As a role model and mentor in Northern Ontario, the Sudbury Bar and his colleagues at Weaver, Simmons are delighted that Mr. Simmons was awarded The Advocates’ Society Medal. He is a true professional, mentor and leader in the Sudbury community. His reputation as a leader, teacher, mentor, advocate and his devotion to clients is well-known by everyone in the community, earning him and our firm several awards. He has personally shaped the legal landscape of Sudbury, as well as my own law practice. It is his tireless commitment to the law and his clients that have earned him the success he appreciates. He is normally found in his office every day, including weekends, with an open door, eager to answer questions or point you in the right direction. He has also made it a point to take me up in his plane for a ride over my hometown of Espanola to see the autumn leaves. He even went as far as to bank the plane so I could get a ‘better picture’, which caused me to almost lose my lunch and caused him a big laugh.

There are many lawyers of Mr. Simmons’ vintage who have made their home in the North and dedicated their practice to serving those of us in Northern Ontario. Much like him, they have all established strong practices to ensure the future of the legal community and the prospects of those wishing to practice in the North thrive. I consider myself lucky to have landed where and for whom I did. ■



## Breakfast Discussion on Human Rights: A Conversation with Navi Pillay & Marlys Edwardh

April 8, 2016 @ The Advocates’ Society, Toronto, ON

[Click here for more information](#) ►



## INTERVIEW

### REBECCA MCCONCHIE, Peck and Company Barristers Vancouver, BC



By: Kate McGrann,  
Crawley MacKewn  
Brush LLP

**Q: Which word do you prefer: litigator or advocate?**

A: Advocate. "Advocating" seems more personal than "litigating", and being involved in the criminal justice system is very personal to defendants. Many are vulnerable and otherwise would not be able to make their position or viewpoint heard or understood. Ensuring that it is forms a big part of my job. That said, I rarely refer to myself as an advocate. I call myself a criminal defence lawyer.

**Q: What is your year of call?**

A: 2012 in Ontario, 2015 in BC.

**Q: Which words or phrases do you most overuse?**

A: The F word and all its variants. Thankfully, swearing is common in the criminal bar, so I haven't gotten into too much trouble for it (yet).

**Q: What is your greatest fear in practice?**

A: Accidentally saying the F word in court.

**Q: What is your idea of perfect lawyerly happiness?**

A: Having a sufficient number of trials and appeals go forward such that I get to be in court arguing cases on a regular basis; working with a great bunch of colleagues with whom I can celebrate and commiserate; and not having to wait for hours in court to have my case heard.

**Q: Which living lawyer do you most admire?**

A: I deeply admire all the female defence counsel who continue to work and shine in this field despite numerous challenges, many of which were examined in the Criminal Lawyers' Association's recent

report on the retention of women in the private practice of criminal law.

**Q: What is your greatest extravagance in your everyday life?**

A: Having a professional cleaning service come to my apartment twice a month. I have two cats and their fur just gets everywhere, and I'm pretty negligent when it comes to housework. My cleaning lady keeps me looking like a proper adult.

**Q: What is your favourite journey?**

A: The Seabus ride home after a long day at work. The Seabus is a ferry I take daily between Vancouver, where I work, and North Vancouver, where I live. Getting on the Seabus is my mental signal that my workday is over.



**Q: What would you consider your greatest achievement?**

A: Gathering up the courage to try out for a competitive moot in my second year of law school. I had chickened out in first year but knew I wanted to litigate so it was vital that I get over my nerves. I did it and ultimately competed in two competitive moots in law school, which gave me invaluable on-my-feet advocacy experience.

**Q: What is your favourite case?**

A: *R. v. Summers*, 2013 ONCA 147, where the Court of Appeal held that in most cases, defendants should get "enhanced" credit for time in pre-sentence custody (i.e. more than 1:1). Credit for pre-sentence custody has a huge practical impact on defendants, so I was anxiously awaiting the decision. Using irrefutable logic and clear language, Cronk J.A. systematically dismantled the arguments for limiting credit to 1:1 in all but exceptional circumstances. I felt a warm glow of relief as I was reading the case. The Supreme Court affirmed the judgment in a similarly great decision (2014 SCC 26), but the Court of Appeal decision will always have a special place in my heart.

**Q: What is your favourite drink?**

A: Beer in the summer, red wine in the winter, and gin and tonic with lime when I'm at a networking event and afraid of spilling on myself.

**Q: From whom have you learned the most about the practice of law?**

A: Before moving to Vancouver, I articulated and worked as an associate for Frank Addario at Addario Law Group. The skills I learned from him still guide me in most things I do in the legal world, from writing a factum to making oral submissions to preparing a cross-examination.

**Q: If you weren't a lawyer, what would you be?**

A: Something in the social justice field.

**Q: If you could have one superpower what would it be?**

A: The ability to wake up early and exercise before work. If that's not a superpower, I don't know what is.

**Q: What is something that you said today?**

A: "Whyyyyyy?!?!?" This was when I was driving through unacceptably slow traffic on my way to court. Criminal defence lawyers take cases all over the place, which means a lot of time in the car. When I'm running late and traffic is bad and I didn't plan ahead and bring an audiobook with me, I tend to whine aloud to myself in the car.

**Q: What is your favourite legal word?**

A: Fairness. I know it's not really a legal word, but it is what everyone in the justice system is (or should be) striving for. Asking yourself, "Is this fair?" when looking at an issue is a simplified but often effective way of approaching a legal issue in the criminal law.

**Q: What is your motto?**

A: Fake it till you make it. It's cheesy, but I used it when I was a brand new lawyer struggling with self-confidence in my abilities. Clients want a lawyer who is both capable and confident. Until I was able to accept it myself, I trusted my mentors who told me I was capable and projected confidence even when internally I had self-doubt. In time, I've been able to quash those doubts and my confidence is (mostly) no longer faked. ■

## ART LAW



### ART LAW AND THE ART OF LAW

KENNETH R. WEST LL.M., C.S. ,  
WALKER WEST LONGO LLP  
with DAVID CAMPBELL,  
ROGERS PARTNERS LLP

I love art. Admittedly when I was younger it was never my thing, but in the last 10 years I have really come to appreciate art and playing a role in the art industry. Perhaps my youthful self struggled with my own inability to create art leading me to the conclusion that the art world is for other people. Luckily a friend and colleague, Peter Milligan, associate counsel at Miller Thomson, showed me that there is a place for everyone in the art world. Since Peter introduced me to art and collecting, I have spent countless otherwise billable hours staring at paintings, attending art shows and talking art with gallery owners, collectors and artists. My current favourite artists in the Canadian scene include the likes of Gavin Lynch, David Urban, Nicole Katsuras, Matt Behan, and Kim Dorland to name a few.

Art collecting has become a nice reprieve from the daily grind of litigation. I could not just enjoy art as a hobby; it is too addictive. This led me to wonder how I could inject my love of art with my love of law. Clearly a career in art wasn't in the cards given my lack of talent, but perhaps there was some way to work art into my practice. Like any other lawyer I set out to research and found that art law is a real thing. I also found that in Canada, there seemed to be some open space in the market.

Most lawyers like school. We all had to endure law school and in many cases at least one other degree. I am no exception. I really like school and miss the classroom. This works out well because

the Institute of Art & Law, based in the UK, offers a diploma course in which I excitedly enrolled. The course has been an excellent experience providing a solid foundation in art law on subject areas such as art lending, recovery of stolen art, bequests and the governing international conventions. Our firm was also able to join the Institute of Art & Law and gain recognition on the Institute's website.

Work should be fun, serious at times, but nevertheless fun. To me this means that if there is something that really interests you, it should be part of what you do if possible. It makes you better at your job if you work on things you love. Art has so many different facets and so many nuances that lead to a need for competent legal advice, it is perfect for a developing legal practice.

As our firm moves forward in art law as a practice area we have worked to join industry groups which give us access to players in the field as well as relevant information about what is happening in art today as well as art law. We added web presence that we are continually developing and we are using social media to stay on top of the subject and industry. Overall, we are working on just being out there, which is easy since attending gallery shows and meeting artists and gallery owners as well as other collectors is really more fun than it is work.

The art world is a truly remarkable microcosm that has many legal issues arising. This should not be surprising given the volume of art in play and the value of art and artifacts. Recently in Ontario, art law made its way to the Superior Court, demonstrating that while art law might seem like a lark it has real and important implications.

The case of *Deluca and Vogeli v. MacLaren Art Centre Inc.*, 2016 ONSC 1428 shows that art law matters in Canada.

A museum loaned the plaintiffs money to buy what they thought were Rodin plasters from an art dealer in Italy.

They bought the plaster for \$62,500 and would get a \$532,500 tax credit for donating it. The French government and the Musée Rodin questioned provenance and authenticity of these purported Rodin plasters, leading to an international criminal investigation.

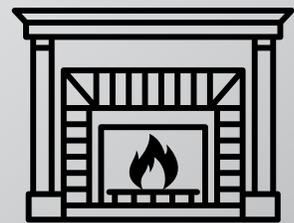
Meanwhile, the plasters were left in the same container that the plaintiffs packed them in. After the museum backed out, the plaintiffs never picked up the plasters. When the crate was opened years later, the plaintiffs found that the plasters had been damaged. Shipping and storage of art is complex to say the least, since even tiny variations in temperature, humidity, or vibration can have catastrophic consequences.

This leads the court to an analysis of the standard of care for museum-quality originals versus uncertified—possibly counterfeit—art. It also brings into play the duty of care expected an involuntary bailee.

Art law makes for an exciting ancillary practice for our firm and shows that if you work on what you love, it isn't really work at all. ■



## YASC Fireside Chat on Advocacy: with Stephen Grant, LSM and Sheila Block, LSM



Monday, April 11, 2016  
5:30pm - 7:00pm  
Campbell House, Toronto

[Click here for more information](#) ►

## AROUND TAS



Quiz Master Chris Horkins getting things started at Trivia Challenge 2016



"Torts Illustrated" from Dutton Brock LLP take home the cup for 2016



"Recovering Accountaholics" from Collins Barrow



"Inglorious FactNerds" from Gowling WLG LLP



"My Other Outfit is a Onesie" from Gowling WLG LLP



Calgary Bench & Bar Reception  
(L to R) Shaun Hohman, Chief Justice Neil Wittmann, Jonathan Denis Q.C., Shiv Ganesh, Brad Findlater, Michael Bokhaut



Calgary Bench & Bar Reception  
(L to R) Brian Foster Q.C., Brian Davison Q.C., Honourable Justice Karen Horner, Chief Justice Neil Wittmann, and Wayne Barkauskas

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The Advocates' Society



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Attending a TAS event? Tweet at us and share your experiences

## Upcoming Events



**Breakfast Discussion  
with Navi Pillay  
(Toronto)**  
April 8, 2016



**YASC Trivia Night  
(Kingston)**  
April 21, 2016



**YASC Pub Night  
(Toronto)**  
May 12, 2016



**Junior Counsel Forum  
(Toronto)**  
May 13, 2016



**Mentoring Dinner  
Series (Toronto)**  
May 16, 2016



### *Wine and Cheese with the Bench*

*Mix and mingle with Judges and Masters.  
Tantalize your palate with wine tastings  
and artisan cheese pairings.*

**Thursday, April 21, 2016  
5:30pm - 7:30pm  
Campbell House, Toronto**

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### Are you a young advocate with a knack for writing?

Submit an advocacy related article to Keeping Tabs and receive exposure to The Advocates' Society's network of lawyers across Canada!

For more information email Jared Ploughman, Marketing and Communications Coordinator, at [jared@advocates.ca](mailto:jared@advocates.ca)