

# INTENSIVE TRIAL ADVOCACY PROGRAMME



FACULTÉ DE DROIT  
UNIVERSITÉ DE MONCTON

June 8<sup>th</sup> – 14<sup>th</sup>, 2014  
Moncton, NB



UNIVERSITÉ DE MONCTON  
CAMPUS DE MONCTON

# Intensive Trial Advocacy Programme

## June 8<sup>th</sup> – 14<sup>th</sup>, 2014

### Statement of Purpose

The Intensive Trial Advocacy Programme is organized and presented by The Faculté de droit of the Université de Moncton, and is designed to train lawyers in basic trial techniques equally applicable to civil and criminal cases. It is ideally suited to lawyers, practising in both the criminal and civil courts with two to twelve years of experience, who have had some familiarity with litigation but limited trial experience.

The programme is a version of the Intensive Trial Advocacy Workshop presented every year since 1979 in Toronto by the Osgoode Hall Law School, and in French in Sherbrooke by the Barreau du Québec since 1983. These Programmes have been widely acclaimed by the profession and are regularly oversubscribed. A unique feature of the Moncton programme is that one section will work in French, and the other in English.

The program format and teaching materials are based on those developed in the United States by Professor James Seckinger of the National Institute for Trial Advocacy, and Notre Dame Law School and adapted to Canadian court practices and procedures by Professor Garry D. Watson QC of Osgoode Hall Law School. The organization, format, materials and teaching methods represent an important co-operative venture between academic teachers and practicing members of the Bench and Bar.

### Teaching Method and Format

The program breaks with traditional continuing legal education by substituting for the lecture, panel and demonstration formats, learning through continual participation in simulated trial sessions, coupled with individual and group critique by experienced trial counsel and judges. Demonstrations are used, but as part of an integrated program which places the major emphasis on individual participation and performance.

The program is structured around small group teaching to ensure that each participant receives adequate individual attention. There will be two sections, each limited to 32 registrants, and for much of the learning period these sections will be further broken down into groups of 8 registrants working with instructors. Extensive use is made of audio-visual resources. All participants will be videotaped and critiqued. The program is intensive and demanding with eight hours of instruction each day plus several hours of necessary preparation each evening. For this reason it is recommended that out-of-town participants not bring their families.

### Trials

Each participant will have the opportunity to try a simulated case as part of a two-person team. The trials will be held on Saturday June 14<sup>th</sup>, and will provide each registrant with an opportunity to exercise in a full trial setting the skills acquired during the week. The trials will take place in the courtrooms of Palais de Justice Moncton Law Courts, 145 Assumption Blvd. in Moncton as well as at Faculté de droit of the Université de Moncton. These trials will be presided over by judges and experienced trial counsel.

### Teaching Staff

Each section of 32 registrants will be divided into four groups. A team leader will work with each group. Team leaders in each group will be joined every day by two guest instructors. The guests will critique the performance of registrants and will also participate in the daily demonstration sessions.

## Team leaders will include:

Judge William McCarroll  
Judge Claude Chicoine  
Pierre Dupras  
Éliane Perreault  
Jonathan Rosenthal  
Mel Solman  
Michael Watson

Provincial Court of New Brunswick  
Court of Québec  
Trudel Nadeau  
Office of Criminal Prosecutions (Québec)  
Barrister  
Solmon Rothbart Goodman  
Gowling Lafleur Henderson

Saint John  
Montréal  
Montréal  
Montréal  
Toronto  
Toronto  
Toronto

## Guest Faculty will include:

Mr. Justice Marc Richard  
Madame Justice Tracey Deware  
Mr. Justice Robert Tuck  
Mr. Justice Donald Burrage  
Mr. Justice Gordon Campbell  
Mr. Justice John Mitchell  
Associate Chief Judge Pierre Arseneault  
Judge Irwin Lampert  
Judge Michael McKee  
Judge Troy Sweet  
Prof. Trevor Farrow  
Anthony Allman, Q.C.  
Nicole Angers  
Michelle Awad, Q.C.  
Hélène Beaulieu, Q.C.  
Basile Chiasson, Q.C.  
Philippe J. Eddie, Q.C.  
Douglas Evans, Q.C.  
Pierre Gionet  
Ian Kelly, Q.C.  
Tom Heintzman, O.C., Q.C.  
Maria Henheffer, Q.C.  
Marie-Josée Hogue  
Helen How  
Charles LeBlond, Q.C.  
Ken McCulloch, Q.C.  
John Merrick, Q.C.  
Christian Michaud  
Joel Pink, Q.C.  
Marie-Elaine Racine  
Peter Rogers, Q.C.  
Mark Scott  
Denise Smith  
Chantal Thibodeau

Court of Appeal of New Brunswick  
Court of Queen's Bench of New Brunswick  
Court of Queen's Bench of New Brunswick  
Supreme Court of Newfoundland and Labrador  
Supreme Court of Prince Edward Island  
Supreme Court of Prince Edward Island  
Provincial Court of New Brunswick  
Provincial Court of New Brunswick  
Provincial Court of New Brunswick  
Provincial Court of New Brunswick  
Osgoode Hall Law School  
Office of the Attorney General (NB)  
Public Prosecution Service of Canada  
McInnes Cooper  
Cox & Palmer  
Chiasson Roy  
Philippe J. Eddie & Assoc.  
Cox & Palmer  
Office of the Attorney General (NB)  
Curtis Dawe  
HeintzmanADR  
Brenton Kean  
Heenan Blaikie  
Ministry of the Attorney General (Ont)  
Stewart McKelvey  
Stewart McKelvey  
Merrick Jamieson Sterns Washington Mahody  
Cox & Palmer  
Pink Larkin  
Joli-Coeur Lacasse  
McInnes Cooper  
Public Prosecution Service (NS)  
Public Prosecution Service (NS)  
Stewart McKelvey

Fredericton  
Moncton  
Moncton  
Saint John's  
Charlottetown  
Charlottetown  
Moncton  
Moncton  
Moncton  
Moncton  
Toronto  
Moncton  
Moncton  
Halifax  
Moncton  
Bathurst  
Moncton  
Saint John  
Caraquet  
St John's  
Toronto  
Saint John  
Montréal  
Toronto  
Moncton  
Halifax  
Halifax  
Moncton  
Halifax  
Québec  
Halifax  
Halifax  
Halifax  
Moncton

The Programme is being organized and directed by Professor James E. Lockyer, Q.C., of the Faculté de droit of the Université de Moncton.

# Programme

## Schedule - Sunday June 8<sup>th</sup>, 2014

- 10:00 a.m. – 12:30 p.m. Registration  
12:30 p.m. – 6:00 p.m. Opening Session

Explanation of programme and introduction of teaching staff; demonstrations of examination in chief and cross-examination; Section meetings: preparation of witness, examination in chief and cross-examination.

## Daily Schedule - Monday June 9<sup>th</sup> through Friday June 13<sup>th</sup>, 2014

- 8:30 – 10:00 Full Section meetings (32 registrants)  
Performance, video-taping and critique.
- 10:00 – 10:25 Coffee Break
- 10:30 – 12:30 Small Section meetings (8 registrants) Video-review and critique;  
Continuing performance.
- 12:30 – 1:30 Lunch
- 1:30 – 2:30 Demonstration Session
- 2:30 – 4:30 Small Section meetings (8 registrants) Video-review and critique;  
Continuing performance.
- 4:30 – 4:45 Coffee Break
- 4:45 – 6:00 Demonstration
- 6:00 Information discussion; cash bar

## Trials: 8:00 a.m. – 5:00 p.m. Saturday June 14<sup>th</sup>, 2014

These trials will be held in the courtrooms of the Palais de Justice Moncton Law Courts 145 Assumption Blvd. in Moncton as well as in the moot courtroom of the Faculté de droit, Université de Moncton.

## Subject Coverage

Theory of the case, Trial Plan & Trial Management, Opening Statements, Examination in chief and cross-examination, Re-direct, Introduction and use of exhibits; Demonstrative evidence, Impeachment and rehabilitation of witnesses, Advanced examination, Examination and cross-examination of expert witnesses, Re-direct, Closing Statements.

# Comments & Evaluations

*The ITAP was a great experience. The combination of repeated practice drills and criticism, and the video review, was very useful in pointing out and correcting bad habits and generally strengthening my skills. Now all I need is more trials! The course was intense and I definitely had to set aside my plans to also do work while away. But the hard work was worth it. I noticed a real improvement.*

*Having the course in Moncton was a real plus. While the faculty were all quite excellent, it was great to meet and learn from lawyers and judges from the Atlantic Provinces. Likewise, the smaller class sizes (36 vs. approximately 120 at the Osgoode version) was nice, as was the fact that the majority of participants also practice locally. **The facilities at U de M were excellent** and it was a short drive to and from the hotel with no time wasted.*

A couple of years ago I was able to attend the trial advocacy program at the National Institute for Trial Advocacy (NITA) outside of Boulder, Colorado. NITA has been delivering this program for almost 40 years, using some of the best trial lawyers and judges from across the United States... **The Intensive Trial Advocacy Program run by the Université de Moncton is every bit as good...** I was very impressed with the quality of the instruction and the value of the product delivered. It was amazing to watch the progress made over the course of the week.

**I think the course should be mandatory** for all litigation and labour lawyers. It is useful to all skill levels, and a wide range was represented. There were a number of participants who had little to no experience on their feet and their performance improved dramatically. We had joked about having to go to Moncton over Toronto, but I am the first to admit our concerns were unfounded.

**I just wanted to let you know that this program was exceptional. It was the best thing I have ever done** from a PD standpoint. **It was a tough week but an extremely worthwhile one.**

Overall **I considered the course to be very valuable.** I was initially concerned that I did not have enough experience to fully benefit. This was not an issue at all. I felt fully capable of doing the work and participating in the program. It was great to be on my feet several times a day trying out new techniques. It was good to be working outside of my comfort zone and getting honest criticism. Most of the feedback was very helpful. I definitely recommend this course.

**The course was really good.** It was really intensive and the days were long. But I certainly learned a lot and got a lot out of the whole experience. I am very happy that I took the course.

**I thought it was great - it was very busy and intense, but was actually a lot of fun, too.** We had a fantastic team leader from Gowlings in Toronto. Each day, multiple guest instructors would visit each group and give their critiques. The caliber of guest instructors was impressive - senior counsel from around the Maritimes as well as judges who were willing to give up their time to listen to us. **The course was not lecture-based, but was primarily focused on us doing examinations, cross-examinations, opening and closing arguments. It was very useful to get up and actually DO these things and be critiqued on**

**them, rather than simply hearing about them or passively watching someone else do them.** It taught me how to approach trial work.

**The course was really excellent.** It was structured to be very specific to each participant, so those with more experience were challenged differently than those with less experience and vice versa. **It was an exhausting week,** as there is a fair bit of work involved. It was really convenient to have it in Moncton and the faculty was top notch. It's nice to have local lawyers and judges, with knowledge of local custom giving critiques."

**I thought it was fantastic. The faculty was excellent, the stuff we covered was appropriate...** I think a person should probably be a couple years out before they attend, but after that I think a lawyer of almost any level of seniority could get a lot of benefit out of this. Certainly an associate of any level would get a lot out of this. I think whenever you're getting criticism from Judges and senior practitioners, it's useful. It was definitely about as intense as something can be. **I know I was working 16 hour days or more throughout,** but it felt like we were in a trial throughout.

I'd highly recommend it to any associate in the office looking to go into litigation. **I appeared on a contested application this morning (successfully!) and I felt much more confident** and prepared as a result of having gone to this course.

**This course was an amazing learning experience.** It was challenging and definitely put me outside of my comfort zone. The critiques and suggestions, although hard to hear sometimes, were all helpful. I think I have improved my advocacy skills considerably.

**All of the instructors were very helpful.** They were clearly engaged and passionate about helping us.

**This was a truly wonderful experience – I learned so much.** I will be a more effective litigator because of this course. Thank you!

**Excellent program! Should be mandatory!** I feel my skills improved significantly. Thank You!

**Everyone was very respectful and constructive.** Comments were very insightful and practical.

*I thought all of the guest faculty were great. They made me feel like I could try things and at the same time they were there to critique. It was a wonderful opportunity to be able to work with them.*

*This is a great course and I learned a lot. Great instructors. Great organization.*

## **Critiques - Team Leaders: Judge McCarroll, Michael Watson, Jonathan Rosenthal**

*Judge McCarroll was very helpful, patient and professional. His criticism will be helpful in my practice.*

*Judge McCarroll was an exceptional team leader. He is suited (ideally) for the role. I was highly impressed.*

*Judge McCarroll was excellent. He provided insightful comments and critique that did not make students feel uncomfortable. It was great to hear from a judge as to what they find persuasive.*

*Judge McCarroll was an excellent team leader. He was constructive, supportive and helpful from start to end. Only positive comments.... He was very patient with everyone. Because of his previous hands-on experience his comments were EXTREMELY useful.*

*Judge McCarroll was a great team leader. He was supportive and encouraging. I learned a lot from him.*

*Judge McCarroll was very approachable and helpful. It was great to benefit from his practical experience. Excellent Critiques!*

*Michael Watson is an amazing instructor. He is very constructive in his criticism but always helpful and sincere. He was direct and encouraging.*

*Michael is an unbelievable teacher and advocate. He is very good in terms of suggestions as well.*

*Michael is an excellent lawyer and instructor. He is very entertaining and provides lots of useful feedback and coaching.*

*Michael was a terrific teacher and kept spirits high even when we were getting tired.*

*Michael was really excellent in pointing out the positive and then the negative in a constructive way.*

*Michael was an amazing instructor. It was clear from the beginning that he is passionate about teaching this course and being an advocate generally. He challenged us to keep pushing and improving.*

*Michael was absolutely wonderful. He was patient with us, never made us feel bad about making mistakes, gave us helpful comments and demonstrations so that we were not left wondering; "How am I supposed to do that?" He set a great tone for a roomful of strangers to feel comfortable with each other.*

*Jonathan Rosenthal was truly a pleasure, tough and to the point, but very wonderful criticism, very effective, very good moving forward.*

*If I could rate Jonathan Rosenthal any higher, I would. He always had enlightening and very constructive criticism. He could give great examples on the right way and the wrong way.*

*Jonathan was a great team leader. He would not sugar-coat and he was very insightful and productive.*

*Jonathan was a great team leader. He was patient but pushed us. He asked if we were getting what we wanted and made sure the class was directed toward that. He had really good feedback and encouragement.*

*Jonathan clearly worked very hard. He was singularly interested in helping us.*

*Jonathan was engaging and enthusiastic. He made all of us feel comfortable and eager to participate and try new things.*