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# SPECIFIC CLAIMS

Chaired by

**Leah Pence**

Mandell Pinder LLP

December 13<sup>th</sup> & 14<sup>th</sup>, 2018 • UBC Robson Square • Vancouver, BC

***Live Webinar also available!***



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## SPECIFIC CLAIMS

Specific claims arise from Crown failures in respect of the administration of First Nations land and other First Nation assets, and from unfulfilled treaty promises. Resolving these historical grievances is critical to building trust and improving Crown-First Nations relationships, and to achieving the national project of reconciliation. In addition, the settlement of specific claims can bring long-term social and economic benefits to Indigenous communities.

In 2007, Canada announced its *Justice At Last: Specific Claims Action Plan*, aimed at improving the process and accelerating the resolution of specific claims. With 10 years' experience, what progress has been made? How has the establishment of the Specific Claims Tribunal contributed to the just resolution of claims, and how is the Tribunal operating to date?

This forum assembles an expert faculty to provide delegates with an update on the progress made in the area of specific claims, including an update on policy and process, negotiations, and the operation of the Specific Claims Tribunal. Decisions from the Tribunal will be discussed, as well as long awaited insight from the Supreme Court of Canada. In addition, faculty will provide delegates with in-depth information and practical advice with respect to researching, preparing and valuing specific claims, and will facilitate discussion on what further steps need to be taken to improve the process and accelerate the just resolution of specific claims.

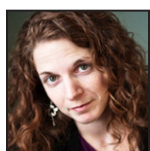
### This Forum Will Focus On The Following:

- The operation of the Specific Claims Tribunal 10 years out, and a look at its future
- Canada's specific claims policy and process
- The relative merits of pursuing claims vs. negotiation vs. mediation
- The Supreme Court of Canada's decision in *Williams Lake Indian Band*, and recent Tribunal decisions, precedents and claims
- Tips for researching and preparing specific claims
- Valuing land claims and other historical losses
- First Nations' experiences before the Tribunal
- The role of Indigenous laws in specific claims

### Who Should Attend?

- Indigenous leaders, officials, councillors, elders, negotiators, administrators and advisors
- Federal, provincial and municipal government officials and policy advisors
- Lawyers practising in the areas of Aboriginal and Indigenous law, administrative law, executives, researchers, consultants and others working in this area
- Directors and members of community boards

### CHAIR



**Leah Pence**, Associate, Mandell Pinder LLP, Vancouver, BC. Leah's work includes advocacy, negotiations, and strategic advice. As a litigator she has been involved in cases dealing with Aboriginal title and rights, assessment and taxation, First Nations' self-governance, and a variety of environmental issues. Leah is also involved in pursuing the settlement of First Nations' historic grievances through negotiations and before the Specific Claims Tribunal. She was co-counsel in *Williams Lake Indian Band v Canada (Aboriginal Affairs and Northern Development)*, which dealt with the Crown's breaches of its fiduciary obligations in failing to protect the Band's village in what is now downtown Williams Lake. Leah believes in the possibilities of the law for advancing First Nations' rights and prosperity and is committed to finding creative ways to assist her clients to meet their goals.

### FACULTY

**Angie Bain**, Researcher, Union of BC Indian Chiefs, Vancouver, BC.

**Donald R. Colborne**, Lawyer, Victoria, BC.

**Craig Gideon**, Director, Lands, Territories and Resources, Assembly of First Nations, Ottawa, ON.

**Councillor Rick Gilbert**, Williams Lake Indian Band, Williams Lake, BC.

**Darwin Hanna**, Partner, Callison & Hanna, Vancouver, BC.

**Councillor John Jack**, Huu-ay-aht First Nations, Vancouver Island, BC.

**Allan Koebel**, Senior Associate, Kent-Macpherson, Kelowna, BC.

**Robyn Laba**, Senior Researcher, Union of BC Indian Chiefs, Vancouver, BC.

**Alisa Lombard**, Associate, Maurice Law, Pikwakanagan, ON.

**Stefan Matiation**, Director General, Specific Claims Branch, Indigenous and Northern Affairs Canada, Gatineau, QC.

**Dr. Bruce McIvor**, Lawyer and Historian, Principal, First Peoples Law Corporation, Vancouver, BC and Toronto, ON.

**Clarine Ostrove**, Mandell Pinder LLP, Vancouver, BC.

**John Peebles**, Land Ethic Consulting Inc., Victoria, BC.

**Chief Fred Sampson**, Siska Indian Band, Lytton, BC.

**Kendra Shupe**, Associate, Mandell Pinder LLP, Vancouver, BC.

**The Honourable Harry A. Slade**, Chairperson, Specific Claims Tribunal, BC Supreme Court, Vancouver, BC.

### AGENDA: DAY ONE — DECEMBER 13<sup>TH</sup>, 2018

**9:00 Welcome and Introduction by PBLI**

**9:05 Chair's Welcome and Introduction**  
Leah Pence, Mandell Pinder LLP

**9:15 Keynote Address: The Specific Claims Tribunal Ten Years Out**  
**The Honourable Judge Harry A. Slade**  
Specific Claims Tribunal

- Update on the operation of the Specific Claims Tribunal
- Where are we after 10 years and where are we going?
- Key trends and recurring issues
- The Tribunal's Annual Report

**10:05 Questions and Discussion**

**10:15 Refreshment Adjournment**

**10:30 Canada's Specific Claims Policy and Process**  
**Craig Gideon**, Assembly of First Nations  
**Stefan Matiation**, Indigenous and Northern Affairs Canada

- Overview of Canada's current/new specific claims policy and process
- How it was developed and what it aims to achieve
- Work of the Assembly of First Nations - Canada Joint Technical Working Group
- Progress towards the establishment of an independent specific claims process

**11:20 Questions and Discussion**

# SPECIFIC CLAIMS

## AGENDA: DAY ONE — CONTINUED

### 11:30 Pursuing Claims vs. Negotiation vs. Mediation

**Donald R. Colborne**

**Dr. Bruce McIvor**, First Peoples Law

- Is settlement on the Tribunal's steps possible or desired?
- What does mediation through the Tribunal look like and how can it help?
- Staying Tribunal proceedings to allow negotiations to proceed: Tribunal's views and proposed practice directives

### 12:20 Questions and Discussion

### 12:30 Networking Lunch

### 1:30 *Williams Lake Indian Band: The Supreme Court of Canada Weighs In*

**Clarine Ostrove & Kendra Shupe**

Mandell Pinder LLP

- Respect for the Tribunal's processes and decisions
- The Crown's fiduciary duty in relation to Aboriginal interests in land
- Responsibility for colonial wrongs

### 2:20 Questions and Discussion

### 2:30 Refreshment Adjournment

### 2:45 Preparing a Specific Claim

**Angie Bain & Robyn Laba**

Union of BC Indian Chiefs

- Types of specific claims
- Researching specific claims: process, tips and challenges
- Researching and including oral history in specific claims
- Challenges with access to information

### 3:35 Questions and Discussion

### 3:45 First Nations' Experiences Before the Tribunal

**Moderator:** Leah Pence, Mandell Pinder LLP

**Speaker Panel:**

**Councillor Rick Gilbert**, Williams Lake Indian Band

**Councillor John Jack**, Huu-ay-aht First Nations

**Chief Fred Sampson**, Siska Indian Band

- Reflections on the process of advancing specific claims before the Tribunal
- Leading and examining oral history evidence
- Use of outside experts
- Community based hearings and site visits
- Alternative processes
- Suggestions for counsel and the Tribunal to make hearings meaningful and accessible to community members

### 4:35 Questions and Discussion

### 4:45 Chair's Closing Remarks – Program Concludes for Day One

## AGENDA: DAY TWO — DECEMBER 14<sup>TH</sup>, 2018

### 9:00 Chair's Welcome and Introduction to Day Two

**Leah Pence**, Mandell Pinder LLP

### 9:05 Recent Tribunal Decisions, Precedents and Claims

**Darwin Hanna**

Callison & Hanna Indigenous Advocates

- Review of recent claims filed with the Tribunal
- Recent decisions on validity: *Siska* and *Tobacco Plains*
- Noteworthy decisions on applications
- Recent developments in advancing claims before the Tribunal

### 9:50 Questions and Discussion

### 10:00 Refreshment Adjournment

### 10:15 Valuation of Specific Claims: Historic Valuations and Loss of Use

**Allan Koebel**, Kent-Macpherson

**John Peebles**, Land Ethic Consulting Ltd.

- Methodologies, best practices, and challenges
- How do we bring forward losses from the past to the present in a fair way?

### 11:00 Questions and Discussion

### 11:10 The Role of Indigenous Laws in Specific Claims

**Alisa Lombard**, Maurice Law

- Specific claims in the context of reconciliation
- Use of Indigenous laws and legal orders in advancing and resolving specific claims

### 11:50 Questions and Discussion

### 12:00 Chair's Closing Remarks – Program Concludes



## INFORMATION

### Four Ways to Register:

1. Telephone us: 604-730-2500 or toll free 877-730-2555
2. Fax us: 604-730-5085 or toll free 866-730-5085
3. Mail your registration form with payment
4. Register at [www.pbli.com/1464](http://www.pbli.com/1464)

**Registration:** The registration fee is \$995.00 plus GST of \$49.75 totalling **\$1,044.75** covering your attendance at the program, materials, a light breakfast, a networking lunch and refreshments throughout the day. In-person attendees have the option to receive their materials electronically in advance of the program, or in a hard copy binder on the day of the program. If an in-person attendee requests both hard copy and electronic materials, an additional \$50 charge will apply. Webinar attendees will always receive their materials electronically.

**Early Bird Discount:** Register by November 13<sup>th</sup>, 2018 and receive a \$150 discount on the registration fee (\$845.00 plus GST).

**Group Discount:** Register four persons from the same organization at the same time and you are entitled to a complimentary fifth registration. Early Bird and Group Discount cannot be combined.

**Payment:** You may pay by VISA, MasterCard or cheque. Cheques should be made payable to the Pacific Business & Law Institute. Registration fees must be paid prior to the program.

**When and Where:** Check-in begins at 8:30 a.m. The program starts at **9:00 a.m.** UBC Robson Square is located at the basement level of **800 Robson Street** in Vancouver, BC. Please visit <http://robsonsquare.ubc.ca/find-us/> for directions.

**Materials:** The faculty will prepare papers and/or other materials explaining many of the points raised during this program. Please contact us at [registrations@pbli.com](mailto:registrations@pbli.com) if you are unable to attend the program and wish to purchase a set of materials.

**Your Privacy:** We will keep all information that you provide to us in strict confidence, other than to prepare a delegate list containing your name, title, firm and city for our faculty and the program delegates. We do not share our mailing lists with any non-affiliated organization.

**Cancellations:** Full refunds will be given for cancellations (less a \$60.00 administration fee) if notice is received in writing five full business days prior to the program (**December 6<sup>th</sup>, 2018**). After that time we are unable to refund registration fees. Substitutions will be permitted. We reserve the right to cancel, change or revise the date, faculty, content, availability of webinar or venue for this event.

**Course Accreditation:** Attendance at this course can be listed for up to **9 hours** of continuing professional development with the Law Societies of BC and Ontario. 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.

## Registration Form

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## SPECIFIC CLAIMS

December 13<sup>th</sup> & 14<sup>th</sup>, 2018  
UBC Robson Square, Vancouver, BC

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