

The Role of Interveners in Public Interest Litigation

Symposium Participants

FRANK ADDARIO is a partner in the law firm of Sack Goldblatt Mitchell where he has a trial and appellate practice devoted to criminal and constitutional law. He received his LL.B. from Osgoode Hall Law School in 1982 and was called to the Bar in 1985. He has argued several leading criminal and constitutional law cases, including *R. v. Paintings and Drawings*, (*Ontario (Attorney General) v. Langer*) (seized art) and *R. v. Glad Day Bookshops Inc.* (Ontario Film Review Board censorship). He was counsel in the Supreme Court of Canada for the Criminal Lawyers' Association in *R. v. Sharpe* (constitutionality of child pornography laws) and for the Canadian Conference of the Arts in *Little Sisters Book and Art Emporium v. Canada* (obscenity and Canada Customs). These cases concern protection for artists and the scope of the constitutional guarantee of the freedom of expression. He is currently the President of the Criminal Lawyers' Association and a Director of the Canadian Civil Liberties Association. He was a Director of Canadian Journalists for Free Expression from 2003 to 2005.

BENJAMIN ALARIE, B.A. (Wilfrid Laurier), M.A. (Toronto), J.D. (Toronto), LL.M. (Yale), researches and teaches principally in taxation law, and has research interests also in contracts and judicial decision-making. Before joining the Faculty, Professor Alarie was a law clerk for Madam Justice Louise Arbour at the Supreme Court of Canada. Professor Alarie is called to the Bar of Ontario. Professor Alarie's research has appeared or is forthcoming in, among others, the *American Business Law Journal*, the *British Tax Review*, the *Canadian Business Law Journal*, the *Canadian Tax Journal*, the *Osgoode Hall Law Journal*, and the *University of Toronto Law Journal*. He is coauthor of the 2nd and 3rd editions of *Canadian Income Tax Law* (LexisNexis, 2006 and 2009). Professor Alarie was awarded the 2009 Alan Mewett QC Prize for Excellence in teaching by the JD class of 2009.

JOSEPH ARVAY has a busy civil litigation practice, with an emphasis on constitutional and administrative law matters. He has been involved in many constitutional cases of importance in British Columbia and elsewhere in Canada, as well as a number of aboriginal rights litigation cases. In 2000, Joseph Arvay was the recipient of the Walter S. Tarnopolsky Human Rights Award and was described by Madam Justice Michèle Rivet, President (Canadian Section), International Commission of Jurists, as "one of Canada's most tireless civil rights and human rights lawyers [who] has made an exceptional commitment to human rights in this country."

CLIVE BALDWIN has been Senior Legal Advisor at Human Rights Watch in New York since 2007. There he is part of a team of three lawyers who oversee the work of the entire organisation, with his particular areas of interest being the Middle East, Europe, Africa and discrimination issues. After studying at Leeds, Princeton and City (London) universities, Baldwin, a British national, qualified as a lawyer in London in 1998. He worked for Bindman and Partners, a leading human rights law firm in Britain, for several years, and then the AIRE Centre (Advice on Individual Rights in Europe) in London, helping prepare cases for the European Court of Human Rights. In 2000, he joined the OSCE mission in Kosovo. His work there included reporting on all aspects of human

rights issues in Kosovo and helping restart the justice system and draft laws, with a particular focus on mental health and human rights. In 2002 he moved back to London to work as head of Advocacy for Minority Rights Group International (MRG). There he set up the organisation's first global litigation programme on minority rights cases. Cases Baldwin prepared and argued from his work at MRG included *The Endorois People v. Kenya*, the first case at the African Commission of Human and Peoples' Rights concerning indigenous rights -- in particular, their eviction from their traditional homeland (verdict expected January 2010). In June 2009, he appeared before the Grand Chamber of the European Court of Human Rights to argue *Finci v. Bosnia-Herzegovina*, where his client, the leader of the Jewish community in Bosnia, is challenging the post-conflict constitution that excludes members of the smaller communities, including the Jews, from standing for the Presidency or upper house of Parliament. This will also be the first ruling by the Court on the new Protocol 12 that prohibits discrimination (judgement expected late 2009). From his work at Human Rights Watch and at MRG Baldwin has overseen or drafted numerous third party interventions in cases in domestic courts and the European and Inter-American Courts of Human Rights. Baldwin publications include on the justice system in Kosovo, the African Charter, on litigating indigenous rights and on minority rights and conflict.

SUJIT CHOUDHRY holds the Scholl Chair and is Associate Dean (First Year Program). He is cross-appointed to the Department of Political Science, the School of Public Policy and Governance, and the Department of Health Management, Policy and Evaluation. He is a Senior Fellow of Massey College, and a Member of the University of Toronto Centre for Ethics and Joint Centre for Bioethics. Professor Choudhry holds law degrees from Oxford, Toronto, and Harvard, was a Rhodes Scholar, held the William E. Taylor Memorial Fellowship from the Social Sciences and Humanities Research Council of Canada (SSHRC), and a Frank Knox Memorial Fellowship from Harvard. He served as law clerk to Chief Justice Antonio Lamer of the Supreme Court of Canada, and was a Graduate Fellow at the Harvard University Center for Ethics and the Professions. In Fall 2008, he was a Global Visiting Professor of Law at the NYU School of Law. Professor Choudhry's principal research and teaching interests are Constitutional Law and Theory, and Health Law and Policy. Professor Choudhry provides constitutional advice to a broad range of public sector and private sector organizations, and is extensively involved in public policy development. He was counsel for Human Rights Watch and the International Human Rights Clinic at the University of Toronto in *Charkaoui*, and was counsel for the British Columbia Civil Liberties Association in *Khadr*.

PAUL M. COLLINS, Jr. is Assistant Professor of Political Science at the University of North Texas. His research involves the study of judicial decision making, with a particular focus on the role of interest groups in the courts. Collins's research is motivated by the desire to apply interdisciplinary approaches to the study of judicial choice and he has a special interest in psychological theories of consistency. The recipient of numerous research awards, his scholarship has been published in many of the leading journals in political science and law. Collins is also the author of *Friends of the Supreme Court: Interest Groups and Judicial Decision Making* (Oxford University Press), which received the 2009 C. Herman Pritchett Award from the Law and Courts Section of the American Political Science Association. This award recognizes *Friends of the Supreme Court* as the best book on law and courts written by a political scientist.

NATHALIE DES ROSIERS is General Counsel to the Canadian Civil Liberties Association (CCLA). She was previously Acting Vice-President – governance of the

University of Ottawa and Dean of the Civil Law Section of the University of Ottawa's Faculty of Law until November 2008. She is a graduate of the Université de Montréal Harvard University in 1984, and has an honorary doctorate from the Law Society of Upper Canada. Professor Des Rosiers was president of the Law Commission of Canada from 2000 to 2004. She served as law clerk to Supreme Court of Canada Justice Julien Chouinard from 1982 to 1983. She is the current President of the Canadian Federation of Social Sciences and Humanities, has been president of the Association des juristes d'expression française de l'Ontario and of the Canadian Association of Law Teachers.

MARY EBERTS, prior to establishing a small, specialized equality litigation practice in 1994, taught law at the University of Toronto, and practiced at Torys, where she became partner in 1984. She was a key advisor to the Status of Women committee on the drafting of the *Charter*, and co-founder of the Women's Legal Education and Action Fund (LEAF). She has been counsel to the Native Women's Association of Canada since 1991, on such issues as the exclusion of NWAC from the Charlottetown Accord constitutional talks, to matrimonial real property on reserves. Mary has received numerous honours for her work in equality issues, as well as several honorary doctorates. She is currently working on her doctorate at the Faculty of Law, University of Toronto.

DOUGLAS ELLIOTT has played a leadership role in some of Canada's most significant class actions, as well as landmark constitutional, government liability and health law cases with national impact. Douglas has received numerous awards, including the Lawyer of the Year Award of the Advocacy Resource Centre for the Handicapped, the Community Service Award of the Metropolitan Community Church of Toronto, the Founders Award of the Universal Fellowship of Metropolitan Community Churches, the SOGIC Hero Award of the Canadian Bar Association, the Distinguished Service Award of the Association of Lesbian and Gay Psychiatrists and the Leadership Award of the Canadian AIDS Society.

MICHAL FAIRBURN is Counsel, Crown Law Office Criminal, Ministry of the Attorney General. She obtained a B.A. in 1987 and an LL.B. in 1990 from the University of Toronto. She articulated at the Crown Law Office Criminal. She was called to the Bar in 1992. Ms. Fairburn appears in all levels of Court, but most often in the Court of Appeal for Ontario and Supreme Court of Canada in criminal related matters. She is an active participant in ongoing education to all justice participants.

MICHAEL FORDHAM, Q.C. is a leading public law and human rights barrister in London (www.blackstonechambers.com). His awards have included Human Rights Lawyer of the Year 2005, the Bar Pro Bono Award 2006, and Human Rights and Public Law QC of the Year 2008. Mike has appeared in more than 30 cases in the UK's Supreme Court (formerly known as the House of Lords), including many interventions for non-governmental organizations, beginning with Amnesty International in the Pinochet cases (Pinochet [2000] 1 AC 61; and Pinochet (No.3) [2000] 1 AC 147). Mike led the interventions for JUSTICE in the anti-terrorism control orders cases (MB v SSHD [2007] UKHL 46; JJ v SSHD [2007] UKHL 45; AF v SSHD [2009] UKHL 28) and in the asset-freezing case (A v HM Treasury, pending: the first appeal argued in the new Supreme Court). Mike has also led the United Nations High Commissioner for Refugees (UNHCR)'s interventions in Fornah v SSHD [2006] UKHL 46 (gender-based persecution) and R v Asfaw [2008] UKHL 31 (refugee penalisation); the intervention by Liberty in YL v Birmingham CC [2007] UKHL 27 (human rights in private care homes); as well as pending interventions for UNHCR (asylum and sexual-orientation) and Bail for

Immigration Detainees (immigration detention due process). Mike is author of the *Judicial Review Handbook* (5th ed., 2008), co-editor of the quarterly journal *Judicial Review* (since 1996) and College Lecturer in Administrative Law at Hertford College, Oxford.

HON. JUSTICE STEPHEN GOUDGE Hons. B.A. (Political Science/Economics), University of Toronto, 1964. M.Sc. (Econ.), London School of Economics, 1965. LL.B. (Awarded Dean's Key), University of Toronto, 1968. Articled to the Hon. Ian G. Scott, Q.C. Called to the Bar of Ontario in 1970. Appointed Queen's Counsel in 1982. Practiced with the small litigation firm of Cameron Brewin and Scott until it merged with Gowling and Henderson in 1983. Was managing partner of the firm Gowling, Strathy & Henderson in Toronto where he engaged in a general litigation practice. Appeared before many administrative tribunals and Courts at all levels in Ontario and the Supreme Court of Canada. Lecturer, University of Toronto Faculty of Law in Labour Law and Native Rights 1974 to 1985 and in Professional Responsibility 2001 to date. Was active in the Ontario Bar Association and the Canadian Civil Liberties Association. Was an elected Bencher of the Law Society of the Upper Canada from 1991 to 1996. He is a Judicial Fellow of the American College of Trial Lawyers. Appointed to the Court of Appeal for Ontario in 1996. Board member, Pro Bono Law Ontario 2002 to 2006. Member, Chief Justice's Advisory Committee on Professional Responsibility, 2001 to date. Appointed on April 25, 2007 by the government of Ontario to conduct the Inquiry into Pediatric Forensic Pathology, which reported on October 1, 2008. Member, Board of Governors, Law Commission of Ontario, 2009 to date. Member, Civil Rules Committee, 2009 to date.

ANDREW GREEN, B.A. Hons. (Queen's) 1987, M.A. (Toronto) 1988, LL.B. (Toronto) 1992, LL.M. (Chicago) 1994, J.S.D. (Chicago) 1997, called to the Bar of Ontario in 1996, is an Assistant Professor. Prior to joining the Faculty, Prof. Green practiced environmental law in Toronto for six years at Davies Ward Phillips & Vineberg LLP, Osler, Hoskin & Harcourt LLP, and Hicks Morley Hamilton Stewart Storie. His practice encompassed both litigation (including prosecutions, administrative appeals and civil actions) and transactional work. From 2002 to 2004, Prof. Green was Senior Research Fellow for Ontario's Panel on the Role of Government, with Professor Michael Trebilcock and Dean Ronald Daniels. The panel identified the major challenges the province faces in areas such as education, health, environment, economic policy, and taxes. Professor Green's research and teaching interests focus on environmental law, international trade and administrative law including how international trade rules constrain countries' ability to implement domestic environmental policy, instrument choice in environmental law (including instruments for fostering renewable energy) and the role of law (including administrative law) in fostering individuals' environmental values.

THE HON. FRANK IACOBUCCI, C.C., Q.C., has had a varied career in private practice, academia, government and the judiciary. He was born, raised and educated in Vancouver, British Columbia, where he received his B. Comm. and LL.B. from the University of British Columbia. He went on to receive his LL.M. and Dip. Int'l L. from Cambridge. He began his career in 1964 as a lawyer at a large New York firm, where he practiced corporate and securities law. In 1967, he joined the Faculty of Law, University of Toronto, and was a Professor of Law there until 1985. He also served as Vice-President, Internal Affairs at the University of Toronto from 1975 to 1979 and Dean of the Faculty of Law from 1979 to 1983. From 1983 to 1985, he was Vice-President and

Provost of the University. In 1985, Mr. Iacobucci was appointed Deputy Minister of Justice and Deputy Attorney General for Canada; in 1988, Chief Justice of the Federal Court of Canada; and in 1991, a Justice of the Supreme Court of Canada. The Honourable Frank Iacobucci retired from the Supreme Court of Canada in June 2004 and served as interim President of the University of Toronto from September 2004 until June 2005. On July 1, 2005, he joined Torys LLP as Counsel and became Chairman of Torstar Corporation (to 2009). He has authored or co-authored numerous books, articles and commentaries on a variety of legal subjects and is the recipient of numerous awards and honours in Canada and abroad, including honorary degrees in Canada and Italy, and his election as an Honorary Fellow of St. John's College, Cambridge. He was appointed a Companion in the Order of Canada in July, 2007, and in 2009 received the Justice Medal for lifetime achievement from the Canadian Institute for the Administration of Justice.

ROSLYN J. LEVINE, Q.C. is the Executive Legal Officer, Office of the Chief Justice, Ontario Superior Court of Justice. She is a graduate of McGill Law School, having received both B.C.L. and LL.B. degrees. She received her LL.M. (Constitutional Law) in 2000 from Osgoode Hall. Ms. Levine was called to the Ontario Bar in 1978 and appointed Queen's Counsel in 1993. Ms. Levine was inducted as a Fellow of the American College of Trial Lawyers in 2006. From 1993 to 1996, Ms. Levine served as head of the Civil Litigation Section in the Ontario Regional Office of the Department of Justice, in Toronto. From 1996 to 2007 she held the position of Deputy Regional Director and Senior General Counsel in the same office. Throughout her 30 year career with the Department of Justice, Ms. Levine carried on a significant litigation practice, which consisted of a variety of criminal, civil, administrative and constitutional litigation in the Ontario and Federal courts, as well as the Supreme Court of Canada. Ms. Levine has written, spoken and taught, extensively, on topics related to the *Charter*, administrative law, Crown liability, appellate practice and Supreme Court practice for the Law Society of Upper Canada, OBA, University of Toronto Law School, Osgoode Hall Law School and other continuing legal education institutions.

CARISSIMA MATHEN BA (McGill), LLB (Osgoode), LLM (Columbia), of the Bar of Ontario. Professor Mathen joined the Faculty Law, University of New Brunswick in 2002, becoming Associate Professor in 2006. She teaches Constitutional Law, Criminal Law, and U.S. Constitutional Law. She has been a visiting scholar at the University of Aberdeen and the University of Toronto; and an invited speaker at conferences all over the world. She is a Harrison McCain Foundation Young Scholar. From 1994-2001, she was Counsel and, later, Director of Litigation for the Women's Legal Education and Action Fund (LEAF) undertaking equality rights litigation before Supreme Court of Canada and other courts. Her work has appeared in diverse publications including *The Supreme Court Law Review*, *Osgoode Hall Law Journal*, *National Journal of Constitutional Law*, *Canadian Journal of Women and the Law*, and *Queen's Law Journal*.

CHERYL MILNE is the Executive Director of the David Asper Centre for Constitutional Rights at the Faculty of Law at the University of Toronto. She was called to the Ontario Bar in 1987 and has a M.S.W. from the University of Toronto. Prior to her current position she had extensive experience as a legal advocate for children with the legal clinic Justice for Children and Youth. There she led the clinic's Charter litigation at the Supreme Court of Canada advocating for children's rights including the challenge to the corporal punishment defence in the *Criminal Code*, the striking down of the reverse onus sections of the *Youth Criminal Justice Act* for adult sentencing, and most recently an

intervention involving the right of a capable adolescent to consent to her own medical treatment. She is currently the Chair of the Ontario Bar Association's Constitutional, Civil Liberties and Human Rights section. She teaches constitutional advocacy at the University of Toronto, Faculty of Law and Social Work and the Law at Ryerson University. She has written extensively on children's rights.

GRAEME MITCHELL Q.C. is the Director of the Constitutional Law Branch, Saskatchewan Ministry of Justice and Attorney General, Regina, Saskatchewan. He received his Bachelor of Music and Bachelor of Arts degrees from the University of Regina in 1975. He received his Bachelor of Laws degree from Osgoode Hall Law School, York University in 1980 and his Master of Laws degree from the University of Chicago Law School in 1989. He was called to the Ontario Bar (1982, resigned in 2006), Saskatchewan Bar (1985) and Manitoba Bar (1987). He joined the Constitutional Law Branch of the Saskatchewan Ministry of Justice in 1984 and was appointed its Director in 1992. He has represented the Attorney General for Saskatchewan in thirty-nine (39) constitutional cases before the Supreme Court of Canada, and served as an advisor to the Premier of Saskatchewan during the 1992 Constitutional Reform Process which culminated in the Charlottetown Accord. He has published widely on administrative, constitutional and criminal law issues, and has taught Advanced Constitutional Law at the College of Law, University of Saskatchewan. He teaches the *Canadian Charter of Rights and Freedoms* to federally and provincially appointed judges through the National Judicial Institute. He was appointed Queen's Counsel in 1998. From 2000 to 2006, he served two terms as an elected Bencher of the Law Society of Saskatchewan serving in a number of capacities and is the Law Society of Saskatchewan's representative on the Council of the Federation of Law Societies of Canada, and the Chair of the National Constitutional and Human Rights Law Section of the Canadian Bar Association. He is the adjunct professor of appellate advocacy at the College of Law, University of Saskatchewan. In February 2009, he was the International Scholar in Residence at Valparaiso University School of Law, Valparaiso, Indiana.

KIM MURRAY is a Citizen of Kahnésatake Mohawk Nation, mother of two daughters and the Executive Director of Aboriginal Legal Services of Toronto. Kimberly has worked with Aboriginal Legal Services of Toronto since her call to the Ontario bar in 1995. Kimberly is a graduate of Osgoode Hall Law School. During her career with Aboriginal Legal Services of Toronto, Kimberly has appeared before the Ontario Court of Appeal, the Federal Court of Appeal, and the Supreme Court of Canada as an intervener. She has acted as counsel or co-counsel on 14 Coroner Inquests, was instructing counsel for ALST at the Ipperwash Inquiry and counsel for ALST at the Goudge Inquiry and the Frank Paul Inquiry in British Columbia. Kimberly is also an Adjunct Professor at Osgoode Hall Law School where she co-facilitates the Aboriginal Land, Resource and Government program. Kimberly previously worked as an Adjunct Professor at Ryerson University in the Department of Criminal Justice and Criminology, where she worked on her research project examining Aboriginal Deaths in custody.

HON. JUSTICE DENNIS O'CONNOR is the Associate Chief Justice of Ontario. In the earlier years of his career, he practised criminal law in Toronto, was a magistrate in the Yukon Territory, prosecuted cases for both the provincial and federal government and taught at the University of Western Ontario Law School. From 1980 to 1998, he practised general litigation with Borden & Elliott in Toronto. During this period, he served as a bencher of the Law Society of Upper Canada for 8 years. In 1998, he was appointed to the Court of Appeal for Ontario and was appointed Associate Chief Justice

in 2001. Justice O'Connor has conducted two public inquiries. From 2000 to 2002, he was the Commissioner of the Public Inquiry into the Tainted Water Tragedy in Walkerton, Ontario. From 2004 to 2006, he conducted the Public Inquiry into the Events Relating to Maher Arar, a Canadian citizen who was sent by the U.S. to Syria where he was imprisoned for one year and suffered from degrading and abusive treatment.

IVANA PETRICONE assumed the duties of Executive Director of ARCH Disability Law Centre in January 2008. Prior to ARCH, Ms. Petricone served as the Executive Director at Rexdale Community Legal Clinic. Ms. Petricone was called to the Ontario Bar in 1980. Her legal practice has focused in the areas of workers' compensation, human rights and immigration law. She is an experienced counsel at both administrative tribunals and appellate courts. Ms. Petricone's career has been as a committed advocate for social justice and the rights of persons with low income. She is a respected leader within the community legal clinic system in Ontario. Ms. Petricone participated in the Steering Committee which initiated the Association of Community Legal Clinics of Ontario and has served on the Association's Executive for several years. She also served on two Clinic Funding Advisory Committees to the Ontario Legal Aid Plan as well as the original Quality Assurance Committee for community legal clinics.

KENT ROACH is Prichard-Wilson Chair of Law and Public Policy at the University of Toronto Faculty of Law, with cross-appointments in criminology and political science, and a Fellow of the Royal Society of Canada. He is a graduate of the University of Toronto and of Yale, and a former law clerk to Justice Bertha Wilson of the Supreme Court of Canada. In addition to his extensive scholarship, he has served on the research advisory committee for a number of public inquiries including the Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, the Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182 and the Ipperwash Inquiry into the killing of Dudley George. He has represented Aboriginal and civil liberties groups in many interventions before the courts, including in the landmark Supreme Court of Canada cases of *Stillman*, *Latimer*, *Gladue* and *Sauve*.

LORRAINE E. WEINRIB was appointed to the Faculty of Law and the Department of Political Science in 1988, after leaving her position as Deputy Director of Constitutional Law and Policy at the Crown Law Office – Civil, Ministry of the Attorney General for Ontario. She has extensive experience in policy development on constitutional issues as well as litigation, frequently at the Supreme Court of Canada. She has taught at the University of Michigan Law School, the Hebrew University in Jerusalem, the Tel Aviv Faculty of Law, and the University of Witwatersrand, Johannesburg. She writes and teaches in the areas of the *Charter*, constitutional litigation and comparative constitutional law. In 2006, Professor Weinrib was featured in a special exhibit as one of the Law School's "Women Trailblazers".