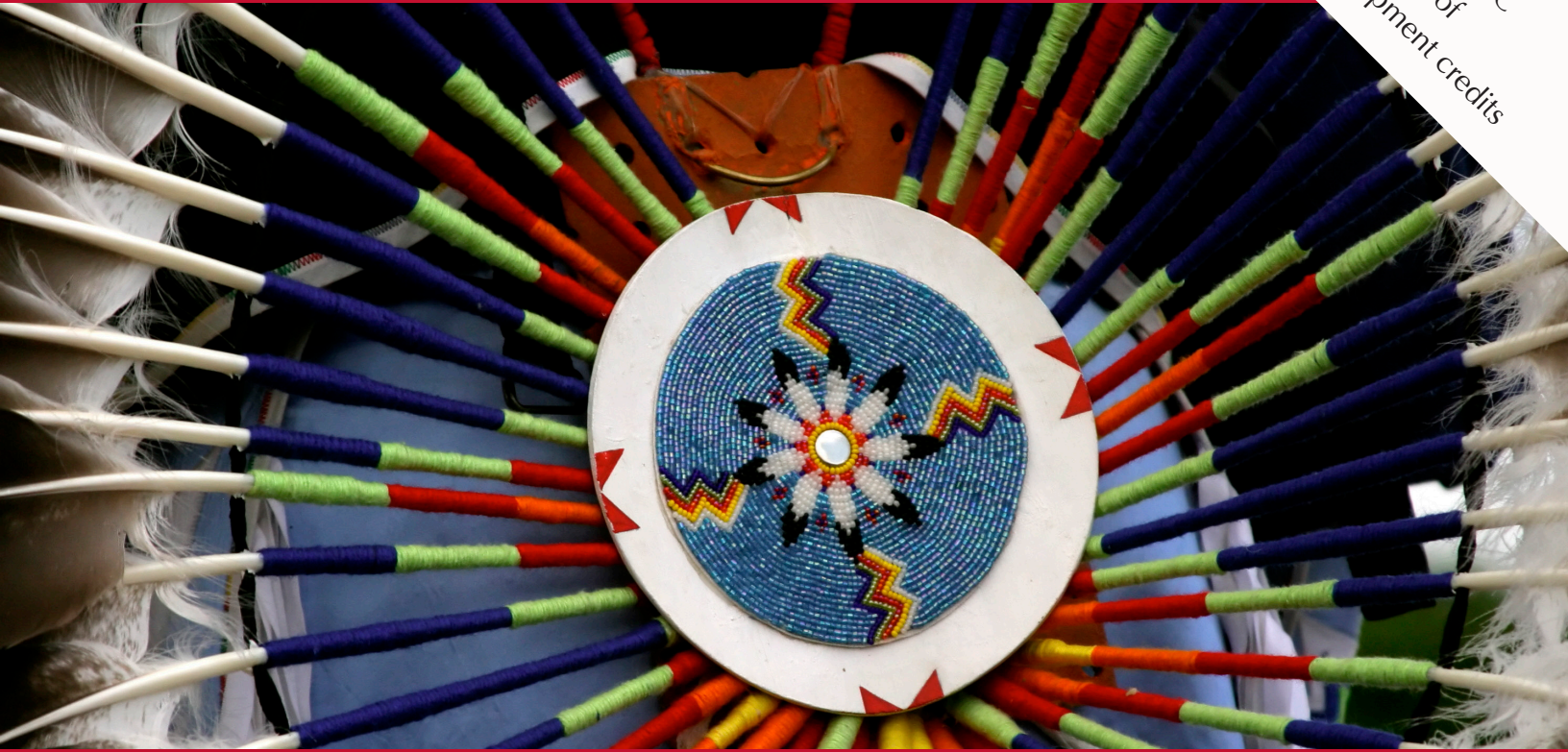




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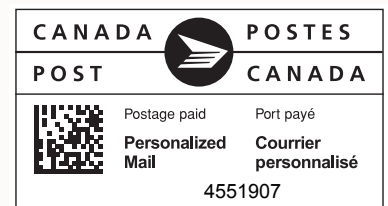
SPECIFIC CLAIMS 2023

Co-Chaired by

Kate Blomfield
Ratcliff LLP

Michelle Ellison
Ratcliff LLP

February 8th & 9th, 2023 • UBC Robson Square (800 Robson Street) • Vancouver, BC
Live Webinar also available!



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CO-CHAIRS



Kate Blomfield, Partner, Ratcliff LLP, North Vancouver, BC. Kate is an experienced legal advisor to First Nations in British Columbia and Yukon with a focus on litigation, negotiations, and governance. Her collaborative approach has allowed Kate to engage closely with her Indigenous clients to advance claims and achieve their self-determined goals. Kate's work includes complex negotiations, acting as legal advisor for project assessment and regulatory processes, rights and title litigation, and resolution of specific claims. Prior to joining Ratcliff in 2003, Kate clerked with the Nunavut Court of Justice.



Michelle Ellison, Partner, Ratcliff LLP, North Vancouver, BC. Michelle has been practising law and representing Indigenous governments for over 20 years. She has experience in many areas of aboriginal law, including environmental assessment and management, litigation and governance matters, however, her practice has focused on the preparation and negotiation of Specific Claims for several years. Michelle has prepared and negotiated numerous specific claims in a wide range of contexts including reserve-creation, logging, roads, fisheries, railways, rights-of-way and surrenders of Indian reserve land. Michelle is known for her diligent, creative and practical approach to resolving claims in a timely manner.

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

SPECIFIC CLAIMS 2023

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 to improving Crown-First Nations relationships, and to achieving the national project of reconciliation. In addition, the settlement of specific claims brings long-term social and economic benefits to Indigenous communities.

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 and precedent 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 resolution of specific claims.

This Forum Will Focus On The Following:

- An update from the Tribunal
- The latest important caselaw on specific claims
- Village site specific claims
- Valuing land claims and other historical losses
- Funding sources for specific claims
- Tips for researching and preparing specific claims
- Dispute resolution methods
- Receiving settlement funds
- UNDRIP, reconciliation, and looking to the future

FACULTY

Angie Bain, Researcher, Union of BC Indian Chiefs, Vancouver, BC. Angie Bain is Nlaka'pamux (Ing-thla-cap-muh) from the Lower Nicola Indian Band of Merritt, British Columbia, Canada. She works for the Union of BC Indian Chiefs as an historical researcher and has worked in a similar capacity for many First Nations in British Columbia and Alberta. Angie has worked as a contract researcher with the Litigation Management and Specific Claims Branches of the Department of Indian Affairs in Canada. She was awarded a Department of Foreign Affairs youth internship and worked with *Te Puni Kokiri* (Ministry of Maori Development) on intellectual property rights and traditional knowledge issues. Angie works with First Nations communities as an advisor, trainer and researcher on Traditional Land Use and Occupancy projects, crown land referrals projects, community planning, indigenous legal traditions and cultural heritage projects. Through her work with UBCIC and with her community, Angie has been working with community elders and knowledge holders on projects including place names, language revitalization, environmental assessments, cultural heritage, oral traditions, repatriation, indigenous legal traditions, traditional foods and cultural revitalization. Angie is a Director with Heritage BC, a member of the Library and Archives Canada's BC Indigenous Research Forum and a member of the Indigenous Advisory Council and volume editor for the Franz Boas Papers Project.

Alex C., Associate, Ratcliff LLP, North Vancouver, BC.



The Honourable Victoria R. Chiappetta, Chairperson, Specific Claims Tribunal, Ottawa, ON. Justice Victoria R. Chiappetta was born in Sault Ste. Marie, Ontario, and is a graduate of York University, Osgoode Law School. Prior to her appointment as a full-time member of the Specific Claims Tribunal in June 2019 and to the Superior Court of Ontario in November 2012, Madam Justice Chiappetta served as Vice President, Legal and General Counsel, for Essar Steel Algoma (now Algoma Steel).

She remains the only woman to hold a position on the steel company's executive. From 1995 to 2007, she worked at a number of legal firms across Ontario. Her main areas of practice were corporate law, civil litigation, environmental law, labour law, and human rights law. As a member of the Superior Court, Justice Chiappetta has broad experience adjudicating in civil, family, and commercial courts. Her most recent post involved overseeing commercial list matters. Justice Chiappetta has been a Deputy Judge of the Nunavut Court of Justice since December 2017, where she has assisted the territory and its history of judicial excellence.



Jesse Donovan, Senior Policy Analyst, Assembly of First Nations, Ottawa, ON. Jesse was born and raised in Vancouver and is a graduate of the University of Saskatchewan College of Law. After clerking at the Federal Court and working at a boutique Indigenous law firm, Jesse joined the Assembly of First Nations as a Senior Policy Analyst. Jesse is a member of the AFN/Canada Specific Claims Implementation Working Group and the Specific Claims Tribunal Advisory Committee.



Darwin Hanna, Founding Partner, Callison & Hanna Law, Vancouver, BC. Darwin's legal work focuses on specific land claims, self-government, community development and a NWT land claim. He was lead counsel for various precedent setting Specific Claims, including *Siska Indian Band v. HMTQ*, 2018 SCTC 2, *Akisq'nuk First Nation v. Her Majesty the Queen in Right of Canada* 2020 and *Siska Indian Band v HMTQ*, 2021 SCTC 2. He has been counsel on 9 specific

claim settlement agreements. For the last 21 years, Darwin has taught First Nations and Economic Development as an Adjunct Professor at UBC's Allard School of Law and he recently updated the 2nd edition of *Legal Issues on Indigenous Economic Development* published by LexisNexis. He was the recipient of the G'NWT Premier's Award for collaboration on the Wildfire Act. Darwin is a member of the Nlaka'pamux Nation from the community of Lytton.



Alana Kelbert, Senior Land Specialist, DEMA Land Services, St Albert, AB. Alana is an Accredited Appraiser (AACI), a Professional Agrologist (P.Ag.) and an AB Licensed Land Agent with over 15 years of experience specializing in complex valuation matters across BC, AB, SK, MB & ONT to assist clients in First Nation land claims, linear right of way acquisitions & expropriations, and land assemblage projects. At DEMA Land Services, Alana works with a diverse team

of associates (agrologists, appraisers, anthropologists & GIS specialists) focusing on historical and current valuations and loss of use & damage assessments of agricultural, recreational and urban properties. Alana has been qualified as an expert witness at the Specific Claims Tribunal.

Robyn Laba, Senior Researcher, Union of BC Indian Chiefs, Vancouver, BC. Robyn Laba has been actively involved in specific claims research and policy reform on behalf of Indigenous Nations in British Columbia for 15 years. She is currently a member of the National Joint Working Group on Information Access and Library and Archives Canada's BC Indigenous Research Forum. She has presented on the implications of international human rights instruments on specific claims resolution in Canada and is a technical member of the BC Specific Claims Working Group.



Ryan Lake, Partner, Maurice Law, Calgary, AB. Ryan Lake is a partner at Maurice Law with extensive experience as an advocate and advisor. His practice is focused on litigation and negotiations related to Aboriginal and treaty rights, including the duty to consult and accommodate. He also has a longstanding commitment to providing professional legal services to the Indigenous peoples of Canada respecting their administrative responsibilities and the organization and development of commercial transactions. He has appeared before the Ontario Superior Court of Justice, the Court of Queen's Bench of Alberta and Saskatchewan, the Federal Court of Canada, the Specific Claims Tribunal, federal and provincial human rights

tribunals, and at various appellate levels. He has also authored several papers focused on the Duty to Consult, Crown fiduciary and treaty obligations, as well as the Specific Claims Process and associated ADR mechanisms.



Ron Maurice, Partner, Maurice Law, Calgary, AB. Ron S. Maurice, a Cree-Métis lawyer, is the Managing Partner and founder of Maurice Law. Maurice Law was founded in 2002, and is the first – and – only – Indigenous-owned national law firm in Canada, with 19 lawyers located across the country. Ron has practiced law since 1991 and has extensive experience in the negotiation and litigation of specific claims, administrative law, trusts, financing, and alternative dispute resolution. Ron represents many First

Nations across Canada on land claims and aboriginal and treaty rights issues including outstanding treaty land entitlements, unlawful surrenders of Indian reserve land and mineral rights, mismanagement of Indian monies, expropriations, infringements on aboriginal and treaty rights and associated claims for damages and restitution for the unlawful taking of reserve lands and other resources.

Shannon McEvenue, Legal Counsel, Department of Justice, Ottawa, ON. Shannon completed her J.D. at the Schulich School of Law, Dalhousie University in 2012 and was called to the bar in Nova Scotia in 2013. After completing her articling year, she moved to Ottawa, Ontario to clerk for the Honourable Mr. Justice Robert Barnes at the Federal Court of Canada. Since 2014, Shannon has been legal counsel with Justice Canada supporting Crown-Indigenous Relations and Northern Affairs Canada in the negotiation and resolution of specific claims and other historical claims made by First Nations against the Government of Canada.

Stefan Matiation, Director General, Specific Claims Branch Crown-Indigenous Relations and Northern Affairs Canada, Gatineau, QC. Stefan Matiation joined the Specific Claim Branch, Crown-Indigenous Relations, in June 2018 as Director General with overall responsibility for the Branch. Stefan has worked on Indigenous issues over the course of much of his career with the federal government, including positions with the Department of Justice, the Privy Council Office and the former Indigenous and Northern Affairs Canada.



Elisa Penn, Associate, Mandell Pinder LLP, Vancouver, BC. Elisa brings her unique experience in regional and urban community planning to her current legal work with First Nations at Mandell Pinder. She helped develop the pilot project for First Nation comprehensive community-based planning now implemented across Canada, and continues to work collaboratively with communities to develop constitutions, election codes, membership codes and other governance tools. Elisa uses a community-based approach

to governance work, developing practical structures that reflect the current needs of the community as well as their Indigenous legal traditions. Her practice includes advocacy, governance, specific claims, rights and title litigation, negotiations, regulatory processes, consultation and accommodation, and commercial transactions.



Arseniy Shchedrinskiy, Associate, Ratcliff & Company LLP, North Vancouver, BC. Arseniy practises in governance and business law, with a focus on First Nations governance, financial and strategic planning, and capital and operational management. Arseniy is passionate about leveraging the combination of legal, financial and governance mechanisms to support the development and self-determination of Indigenous communities. Prior to joining Ratcliff, Arseniy was the Financial Controller of a Lower Mainland

Municipality, a Senior Finance and Strategy Manager for a national telecommunications company, and the Director of Finance and Strategy for an international consulting firm. As a skilled advisor, he applies his expertise in the development and implementation of legal and financial frameworks, strategic analysis, and complex negotiations to provide progressive, high-value insights to clients. Beyond law, Arseniy is a Chartered Professional Accountant (CPA Canada), Chartered Accountant (ICAEW, UK), and is Certified in Financial Forensics (AICPA, US).



Nisha Sikka, Lawyer, First Peoples Law, Vancouver, BC. At First Peoples Law, Nisha practises in a number of different areas including: Aboriginal rights and title, consultation and accommodation, governance and specific claims. She also practises civil litigation. In addition to working with clients to achieve their goals, she is also committed to trauma-informed lawyering and promoting access to justice. Nisha is currently the Law and Policy Liaison of the Canadian Bar Association's Aboriginal Law section

(BC Branch) and also volunteers at Amici Curiae's clinics providing free legal assistance to individuals who require support completing their legal forms.

Harry A. Slade, KC, Mediator, Vancouver, BC. Former Justice Slade attended UBC and was called to the bar in 1974. He was a partner at Ratcliff & Company LLP until 2001. He was designated Queen's Counsel in 1998. He served as a Justice of the BC Supreme Court, 2001 – 2021, and as Chairperson of the Specific Claims Tribunal Canada, 2010 – 2021. Prior to his appointment to the bench in 2001, his primary field of work was the provision of services to Indigenous peoples and organizations. He and members of his firm pioneered the reconciliation of Indigenous interests in land and resources with private interests, and with the powers of municipal and provincial governments. This included the consensual resolution of land use conflicts, and the negotiation and implementation of agreements with corporate participants' interests. Mr. Slade was co-counsel for interveners in *Sparrow*, *Delgamuukw*, and other seminal cases concerned with the definition of Aboriginal rights and the interplay of rights with provincial and federal legislative powers. He was active in advancing Specific Claims, litigation over the loss of reserve lands, and treaty negotiations.

Jody Woods, Administrative Director and Research Director, Union of BC Indian Chiefs, Vancouver, BC. Ms. Woods has been Research Director at UBCIC since 2002. The UBCIC Research Department, which houses the UBCIC Resource Centre and the largest specific claims research program in Canada, currently researches and advances over 130 specific land claims for First Nations in BC. Ms. Woods has a Master's Degree in History from the University of British Columbia and lives in Vancouver with her husband and two daughters.

SPECIFIC CLAIMS 2023

FEBRUARY 8TH, 2023 (DAY ONE)

9:00 Welcome and Introduction by PBLI

9:05 Chairs' Welcome and Introduction

Kate Blomfield & Michelle Ellison, Ratcliff LLP

9:15 Keynote Address: The Latest from the Specific Claims Tribunal

The Honourable Victoria R. Chiappetta, Specific Claims Tribunal

- Update on the operation of the Specific Claims Tribunal
- Key trends and recurring issues
- The Tribunal's Annual Report

10:05 Questions and Discussion

10:15 Refreshment Adjournment

10:30 Caselaw Update

Darwin Hanna, Callison & Hanna Law
Shannon McEvenue, Department of Justice

- Recent decisions on the law of fiduciary duty (SCT decisions, *Southwind* and *Restoule*)
- Key validity and interlocutory decisions

11:20 Questions and Discussion

11:30 Looking Ahead: Specific Claims Reform

Jesse Donovan, Assembly of First Nations
Stefan Matiation, Crown-Indigenous Relations and Northern Affairs Canada

- Update on the existing Specific Claims process
- Proposed reforms to the Specific Claims process

12:20 Questions and Discussion

12:30 Catered Lunch

1:30 First Nations' Counsel Perspectives on Specific Claims to Village Sites vs Aboriginal Title Litigation

Elisa Penn, Mandell Pinder LLP

- How these types of claims compare, contrast and inform each other

2:20 Questions and Discussion

2:30 Refreshment Adjournment

2:45 Funding for Specific Claims

Alex C., Ratcliff LLP

Nisha Sikka, First Peoples Law

- Review of funding options
- Review of Canada's Funding and Loan Funding Guidelines
- Practice tips to avoid delays and rejection of funding applications

3:25 Questions and Discussion

3:35 Researching Specific Claims

Angie Bain, Robyn Laba & Jody Woods, Union of BC Indian Chiefs

- Researching specific claims: process, tips and challenges
- Researching and including oral history in specific claims
- Strategies for expediting access to information requests

4:20 Questions and Discussion

4:30 Chairs' Closing Remarks – Program Concludes for Day One

FEBRUARY 9TH, 2023 (DAY TWO)

9:00 Chairs' Welcome and Introduction to Day Two

Kate Blomfield & Michelle Ellison, Ratcliff LLP

9:05 Featured Speaker: Alternative Dispute Resolution and the Tribunal Process

Harry A. Slade, KC, Mediator

- Fostering negotiated settlements: community hearings, case management conferences
- Consensus seeking: building trust, identifying central issues of fact and law, listing documents, encouraging dialogue in CMCs
- Fairness in advancement of claim and negotiated resolution: agreeing on expert instructions, bifurcating liability and compensation
- ADR: informal discussions, mediation, agreements to negotiate

9:50 Questions and Discussion

10:00 Refreshment Adjournment

10:15 Preparing Your Nation for Receipt of Large Settlement Funds

Arseniy Shchedrinskiy, Ratcliff LLP

- Preparing your Nation to receive large monetary settlements: governance, trust agreements and financial management

10:50 Questions and Discussion

11:00 Valuing Claims and Compensation

Ron Maurice & Ryan Lake, Maurice Law
Alana Kelbert, DEMA Land Services

- The caselaw on compensation
- Loss of use assessments

11:45 Questions and Discussion

11:55 Chairs' Closing Remarks – Program Concludes

INFORMATION

Two Ways to Register:

1. Telephone us: 604-730-2500
2. Register at www.pbli.com/sclaims23

Registration: The registration fee is \$1,220.00 plus GST of \$61.00 totalling **\$1,281.00**. Registration fee covers your attendance at the program, electronic materials, a catered lunch and refreshments throughout the day.

Early Bird Discount: Register by January 9th, 2023 and receive a \$150 discount on the registration fee (\$1,070.00 plus GST). Discounts cannot be combined.

Group Discounts: Register four persons from the same organization at the same time and you are entitled to a complimentary fifth registration. Discounts 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. (PST)**. 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 if you are unable to attend the program and wish to purchase a set of electronic 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/Transfers: 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 (**February 1st, 2023**). 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 and transfer in-person registration to webinar registration for this event.

Course Accreditation: Attendance at this course can be listed for up to **8.75 hours** of continuing professional development credits with the Law Societies of BC and Ontario. For practitioners in other jurisdictions, please check your governing body's CPD requirements.

Registration Form

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Telephone: 604-730-2500; Fax: 604-730-5085
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SPECIFIC CLAIMS 2023

February 8th & 9th, 2023

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