

Kevin B. Westell

Barrister & Solicitor

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BIOGRAPHY

Kevin Westell is a founding partner at Pender Litigation. In addition to his criminal and regulatory defence work, he is often retained to act as Crown Counsel, counsel for witnesses in criminal proceedings and as amicus curiae. He has represented clients across Canada and at all levels of court in British Columbia.

He regularly represents lawyers and police officers subject to professional disciplinary proceedings, individuals subject to proceedings before the BC Securities Commission and patients subject to proceedings before the British Columbia Review Board.

Mr. Westell teaches trial advocacy skills to law students and junior lawyers at programs that include the Allan McEachern Course in Trial Advocacy, the CLEBC Winning Advocacy Skills Workshop, and the Osgoode Hall Intensive Trial Advocacy Workshop. He has also presented at many continuing legal education conferences including the CBA National Criminal Law Conference, as well as various programs put on by the Law Society of British Columbia, the Advocate's Society and the Continuing Legal Education Society of BC.

He currently serves as a Member at Large of the CBA National Criminal Justice Section, the Advocates' Society's Criminal Law Working Group, and the Advocates' Society's British Columbia Advisory Committee. He is Chair of the TLABC Criminal Law Committee and a former Chair of both the Advocate's Club and the CBA Vancouver Criminal Justice Subsection.

EDUCATION

University of Manitoba - Bachelor of Arts, 2004
Robson Hall at the University of Manitoba - Bachelor of Laws (*Wilson Moot, Dean's List 06/07, University Law Centre*), 2008
Admitted to the British Columbia Bar, 2009

POSITIONS

Partner, Pender Litigation: July 2017 - present
Partner, Sutherland Jetté Barristers: June 2013 – June 2017
Student and Associate Counsel, Glen Orris, Q.C.: May 2008 – May 2013
Sessional Instructor, University of the Fraser Valley: Spring, 2018

PROFESSIONAL TRAINING PROGRAMS COMPLETED

Professional Legal Training Program (PLTC), Law Society of B.C., Vancouver, July 2009
11th Annual CLEBC Winning Advocacy Skills Workshop, Vancouver, 2011
National Institute for Trial Advocacy Teacher Training Course, San Francisco, October 2016
Advocate's Society 2017 Teacher Training Workshop, Toronto, September 2017

Media Training for Lawyers Workshop, Renu Bakshi Communications, Vancouver, May 7 & 14, 2019
[UPCOMING]

SELECTION OF NOTABLE & REPORTED CASES

R. v. Gill, 2019 BCSC 461
R. v. Delgren, 2019 BCSC 396
R. v. Himpfen, New Westminster Supreme Court File No. X0794496 (Nov. 23, 2018)
Smith and Finkbeiner v. The District of West Vancouver, 2018 BCPC 326
R. v. French, 2018 BCSC 825
R. v. Afzali, [2016] B.C.J. No. 2115, 2016 BCPC 305
R. v. J.J.J., [2016] B.C.J. No. 970
R. v. Lee, [2011] B.C.J. No. 1396, 2011 BCPC 178, 2011 CarswellBC 1917, 95 W.C.B. (2d) 574
R. v. Kulash, [2014] B.C.J. No. 2438, 2014 BCPC 219, 2014 CarswellBC 2886, 116 W.C.B. (2d) 401
R. v. Boden, [2011] B.C.J. No. 2470, 2011 BCPC 366, 2011 CarswellBC 3489, 100 W.C.B. (2d) 365
R. v. Nguyen, [2014] B.C.J. No. 343, 2014 BCSC 338, 2014 CarswellBC 507, 112 W.C.B. (2d) 504
R. v. Hunter, [2016] B.C.J. No. 902, 2016 BCSC 796
R. v. Hughes, [2012] B.C.J. No. 397, 2012 BCCA 87, 316 B.C.A.C. 226, 99 W.C.B. (2d) 778, 2012 CarswellBC 450
R. v. Kelly, [2013] B.C.J. No. 515

SELECTION OF ARTICLES, PUBLICATIONS & SPEAKING ENGAGEMENTS

1. Guest Instructor, RCMP Search Warrant Training Course, Pacific Regional Training Centre, Chilliwack, September 28, 2012;
2. Author, "Preliminary Hearings: The Discovery Function," a paper prepared for the CBA National Criminal Conference, Vancouver, April, 2013;
3. Author, "Hearsay Since Khelawon: A Survey of the SCC's Hearsay Decisions after the Hearsay Revolution", a paper prepared for the CBA National Criminal Conference, Vancouver, April, 2014;
4. Author, "Regina v. St.-Cloud: A "Monumental Change" to the Law of Bail" a paper published in The Verdict, Issue 146, Fall 2015, p. 20, presented to the Advocates Club, September 21, 2015 and presented to the Surrey Bar Association on January 6, 2015;
5. Co-author with Trevor B. Martin, "Challenges in the Jury Selection Process", a paper prepared for the 2016 CBA National Criminal Justice Section, April 9, 2016;
6. Co-presenter and Skills Instructor with Mr. Justice Paul Walker & Susan Van der Flier, "Bench and Bar Series: Challenging Credibility" (April 14, 2016), a workshop presented by the Advocate's Society, Vancouver, BC;
7. Co-presenter with Mr. Justice Lance Bernard & Sandy Cunningham, Q.C. "Direct Examination" (May 4, 2015), a presentation at the annual Provincial Crown Counsel Conference, Whistler, BC;
8. Author, "A Return to Sentencing Sanity" a paper published in The Verdict, Issue 149, Summer 2016,
9. Co-Chair with Michelle Wray, "Criminal Law Perspectives 2016" (June 11, 2016), a conference presented by the Continuing Legal Education Society of BC, Vancouver, BC;

10. Delegate, 2016 Uniform Law Conference of Canada representing the CBA as a member of the Federal Delegation, Fredericton, New Brunswick, August 7-11, 2016;
11. Presenter, "Cross-Examination" (September 12, 2016), a presentation to the UBC Indigenous Community Legal Clinic;
12. Presenter, "Negotiations with Crown Counsel" (September 14, 2016), a presentation to the UBC Indigenous Community Legal Clinic;
13. Panelist [with Doug King (Pivot Legal Society), Morgan Camley (Miller Thompson) & Mila Shah (Peck & Company)], "UBC Criminal Law Club Career Panel", a presentation to Students at UBC, March 15, 2017
14. Presenter and Skills Instructor, "A Civil Litigation Skills Certificate Program: Evidence for Litigators" (April 20, 2017), a workshop presented by the Advocate's Society, Vancouver, BC;
15. Co-Chair with Michelle Wray, "Criminal Law Perspectives 2017" (May 6, 2016) a conference presented by the Continuing Legal Education Society of BC, Vancouver, BC;
16. Co-Presenter with Janet Winteringham, Q.C., "Not Criminally Responsible: A Primer" (May 30, 2017), a webinar presented by Courthouse Libraries BC and the Criminal Defence Advocacy Society, Vancouver, BC:
17. Delegate, 2017 Uniform Law Conference of Canada representing the CBA as a member of the Federal Delegation, Regina, Saskatchewan, August 13-17, 2017;
18. Guest Instructor [with Andrew Nathanson], LAW 472.001 - The Allan McEachern Course in Trial Advocacy, Allard School of Law at UBC, October 19, 24, 2017;
19. Member of Organizing Committee (with Chris Johnson, Q.C. & Wendy Stephen, Q.C.) and Skills Instructor, "Criminal Trial Advocacy" (December 7, 2017), a workshop presented by the Advocate's Society, Vancouver, BC (First Advocates' Society Criminal Program Ever in Vancouver);
20. Legal Reviewer, "A Guide to Aboriginal Harvesting Rights, 3rd Ed.", Legal Services Society, December 2017
21. Guest Speaker with Sgt. Greg Yanicki & Crown Counsel Mike Fortino, RCMP "E Division" Interview Team – Ad Hoc Training Days, January 10-12, 2018 EHQ (Green Timbers, Surrey)
22. Panelist [with Derek LaCroix (LAP) & Laura Duke (Lawson Lundell)], "UBC Wellness Committee Panel – Sponsored by Pender Litigation", a presentation to Students at UBC, January 25, 2018
23. Panelist [with Nicola Allen (Schuman Daltrop Basran & Robin), Howard Wong (Synergy Business Lawyers), and Elise Everest (Pushor Mitchell LLP)], "UBC Small Firm Panel", a presentation put on by UBC Law Career Services at UBC, March 1, 2018
24. Guest Speaker with Crown Counsel Wendy Stephen, Q.C. & Teresa Iandiorio, RCMP Integrated Homicide Investigation Unit "IHIT"– Training Day, March 20, 2018 EHQ (Green Timbers, Surrey)
25. Member of the Organizing Committee (with Miranda Lam & Emily Kirkpatrick), Speaker, Skills Instructor, "From the Theory to the Courtroom: Opening and Closing Statements", a workshop presented by the Advocate's Society, Vancouver, BC (April 18, 2018, Vancouver)
26. Panelist [with Mr. Justice Mark Brundrett & Laura Visziyoli], CBA Criminal Justice Conference, an annual conference presented by the CBA National Criminal Law Section, Vancouver, April 21, 2018
27. Speaker [with Tony Paisana], "Bill C-75: The Good, the Bad and the Ugly", CBABC Vancouver Criminal Justice Subsection Meeting, Vancouver, May 23, 2018
28. Presenter, "Regina v. Stanley & the Jury Selection Amendments in Bill C-75 " a presentation to Advocates Club, May 28, 2018;

29. Instructor, 19th Annual Award Winning Advocacy Skills Workshop, an annual advocacy skills workshop presented by the Continuing Legal Education Society of British Columbia (CLEBC), Vancouver, July 4-6, 2018
30. Instructor, 39th Annual Intensive Trial Advocacy Workshop (ITAW), an annual advocacy skills workshop presented by Osgoode Hall Law School, Toronto, July 8-14, 2018
31. Delegate, 2018 Uniform Law Conference of Canada representing the TLABC as a member of the BC Provincial Delegation, Quebec City, Quebec, August 12-16, 2018;
32. Member, Working Group on Witness Confrontation and Section 9 of the *Canada Evidence Act* (2018), Uniform Law Conference of Canada, Quebec City, August, 2018;
33. Guest Speaker, *Stress-Free Litigation: A Myth?* (October 16, 2018), a conference presented by the Advocates' Society, Vancouver, B.C.
34. Guest Speaker, *Cross-Examination*, (October 19, 2018), a conference presented by the Continuing Legal Education Society of BC, Vancouver, BC
35. Author, "Impeaching the Lying Witness" a paper published in the course materials for *Cross-Examination* (October 19, 2018), a conference presented by the Continuing Legal Education Society of BC, Vancouver, BC;
36. Guest Instructor [with Lisa Ridgedale], LAW 472.001 - The Allan McEachern Course in Trial Advocacy, Allard School of Law at UBC, October 18, 23, 2018;
37. Guest Speaker [with Dasein Nearing and Michaela Donnelly], *Correctional Service of Canada Staff Testifying in Dangerous Offender Hearings*, a workshop presented by Crown Counsel in Vancouver, November 1, 2018.
38. Delegate [Representing the Criminal Defence Advocacy Society (C-DAS)], Law Society of BC's Second Legal Aid Colloquium, Simon Fraser University Downtown Campus, November 17, 2018
39. Guest Speaker with Sgt. Greg Yanicki & Crown Counsel Mike Fortino, RCMP "E Division" Interview Team – Ad Hoc Training Days, EHQ (Green Timbers, Surrey), February 6 & 7, 2019
40. Guest Speaker with Gloria Ng, Defence Counsel - *How to Start and Run a Practice*, a conference presented by the Criminal Defence Advocacy Society (CDAS), (Vancouver, BC), February 23, 2019
41. Member, Working Group on Section 525 Detention Reviews After *R. v. Myers*, a meeting hosted by Associate Chief Justice Heather Holmes to Discuss Process Changes Related to *Regina v. Myers*, 2019 SCC 18 (Vancouver, BC), April 17, 2019
42. Guest Speaker, *How To Be A Great Litigation Junior 2019*, (May, 2019), a conference presented by the Continuing Legal Education Society of BC, Vancouver, BC;
43. Co-Author, *Decision-Making Guidelines for Cannabis Background Security Screening and Risk Matrix*, RCMP-CFSEU Cannabis Organized Crime Counter-Proliferation Unit, (June, 2019)
44. Instructor, 40th Annual Intensive Trial Advocacy Workshop (ITAW), an annual advocacy skills workshop presented by Osgoode Hall Law School, Toronto, July 7-13, 2019;
45. Delegate, 2019 Uniform Law Conference of Canada representing the TLABC as a member of the BC Provincial Delegation, St. John's, NL, August 18-22, 2019;
46. Member, Working Group on s. 487 of the *Criminal Code of Canada* (2019), Uniform Law Conference of Canada, St. John's, NL, August, 2019;
47. Speaker [with Lara Vizsolyi and Todd Gerhart], "Bill C-75", CBABC Vancouver Criminal Justice Subsection Meeting, Vancouver, September 17, 2019

48. Presenter [with Rebecca McConchie], "Introduction to Criminal Law" (September 25, 2019), a presentation to the UBC Indigenous Community Legal Clinic;
49. Guest Instructor [with Lisa Ridgedale], LAW 472.001 - The Allan McEachern Course in Trial Advocacy, Allard School of Law at UBC, October 17, 22, 2019
50. Guest Instructor [with Mike Hewitt], LAW 468.007 – T / 588.007 Ethics & Professionalism, Allard School of Law at UBC, October 23, 2019
51. Member, Working Group Bill C-75, a meeting hosted by Associate Chief Judge Paul Dohm to Discuss Process Changes Related the amendments from Bill C-75 (Vancouver, BC), October 21, 2019
52. Panelist [with Joanna Medjuk (Provincial Crown) Sarah Leamon (Sarah Leamon Law Group) & Farah Malik (Provincial Crown), "UBC Criminal Law Club Career Panel", a presentation to Students at UBC, January 14, 2020;
53. Panelist [with Mr. Justice Rick Saul & David Ruse], CBA Criminal Justice Conference, an annual conference presented by the CBA National Criminal Law Section, Vancouver, April 25, 2020 [UPCOMMING];
54. Guest Speaker, Member of Organizing Committee (with Chris Johnson, Q.C. & Karima Andani, Q.C.) and Skills Instructor, "Criminal Trial Advocacy" (September, 2020), a workshop presented by the Advocate's Society, Vancouver, BC [UPCOMMING].

PROFESSIONAL MEMBERSHIPS & POSITIONS

Law Society of British Columbia (LSBC);

Articled Student, 2008-2009

Member of the Bar, 2009-present

Canadian Bar Association (CBA);

Member, 2005-present

Member of the Executive Committee for the Vancouver Criminal Justice Subsection, 2012-2016

Chair for the Vancouver Criminal Justice Subsection, 2015-2016

Executive Member for the National Criminal Justice Section, 2015-present

Member, National Committee on Ethics and Professional Responsibility, 2016-2017

The Advocates' Society (TAS);

Member, 2008-present

Executive Member of the Criminal Law Practice Group, 2016-18

BC Regional Advisory Committee, 2016-present

10+ National Standing Committee, 2019-present

Trial Lawyers Association of British Columbia (TLABC);

Member, 2008-present

Member of the Criminal Defence Committee, 2015-present

Chair of the Criminal Defence Committee, 2018-present

The Advocate's Club;

Member, 2013-19

President, 2016-19

Criminal Defence Advocacy Society (C-DAS);

Regional Representative for Vancouver, November 2015-present

Canadian Association of Legal Ethics
Member, 2016-present

Criminal Lawyers Association (CLA);
Member, 2008-present

Vancouver Bar Association (VBA);
Member, 2008-present

The Law Courts Inn;
Director, 2016-18

NON-PROFESSIONAL MEMBERSHIPS & POSITIONS

Vancouver Police Foundation (VPF);
Member & Donor, 2019-present

RCMP Foundation;
Donor, 2019-present

Special Olympics BC,
Donor, 2019-present

Strathcona Community Centre Board of Directors
Director, 2019-present

The Crisis Intervention and Suicide Prevention Centre of BC (Crisis Centre) Board of Directors
Director, 2019-present