



 **April 2019** 

PAUL DAVIS

RECOVER • RECONSTRUCT • RESTORE

Property Damage?

Call 1.877.570.0438

EMERGENCY
24/7
SERVICE

Kitchener-Waterloo
Guelph-Wellington
Grey and Bruce Counties

pauldavis.ca



Advisory Services

*Ontario's Leader in Providing
Insurance & Litigation Accounting Services*

SABS Claims
Dependency Analysis
Economic Loss Claims

Commercial Losses
Fraud Investigation
Litigation Experts

Jessy Hawley CPA, CGA, CFE, CIP Gary Phelps CPA, CMA, CFE, CPE
advisoryservices@davismartindale.com 1.800.668.2167

Online Calculators

No login required & no information is retained.



IRBs



INTEREST



NPV

London - 373 Commissioners Road West, ON N6J 1Y4 | t: 519.673.3141
Toronto - 20 Bay Street - Suite 1100, ON M5J 2N8 | t: 416.840.8050
davismartindale.com





**Building Relationships
One Floor at a Time**

tile
carpet
hardwood

www.carpetdepartment.com

271 Shoemaker Street, Unit 2,
Kitchener, ON N2E 3B3

Tel: (519) 894-7162
(888) 894-7162

Fax: (519) 894-0642



ARCON
FORENSIC ENGINEERS



**Property Loss or
Personal Injury Claim?**

Call the Experts!

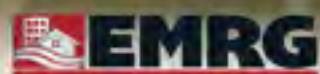
*Establish Coverage
Set Reserves Accurately
Identify Subro Opportunities
Uncover Fraudulent Claims
Validate Repair Estimates*

888.272.6671 or 416.491.2525
randy.henderson@arconforensics.com



TIME TO CALL THE DRYING EXPERTS

1-888-647-3334



FIRST RESPONSE
Restorations Inc. ESTABLISHED 1997

Providing Emergency Services 24 hrs a day, 7 days a week

Email: 1respond@firstresponserestorations.ca

www.firstresponserestorations.ca

2 Locations to Serve You!

- 172 Washburn Dr., Kitchener N2R 1S2
- 126 Malcolm Rd., Guelph N1K 1J1

Service with Commitment and Integrity



Caskanette Udall

CONSULTING ENGINEERS

EXPERIENCED • TRUSTED • PROMPT

Fire Investigations

Accident Reconstruction

Personal Injury

Environmental Services

Structural Design

Building Science

Property Claims

Mould & Asbestos

248-675 Queen St. S., Kitchener, ON N2M 1A1

www.caskanette.on.ca 1-800-920-5854



Put your mind at ease

Claims. Litigation. Investigations.

Challenges of daily life in the insurance business.

You don't need to confront these alone. At KPMG we provide independent, objective and credible advice to help bring claims, litigation and investigations to successful conclusions for you and your clients.

KPMG can help put your mind at ease when dealing with difficult and sensitive issues.

Let's start the conversation.

Karen Grogan

T: 519-747-8223

E: kgrocan@kpmg.ca

David Bushell

T: 519-747-8882

E: dbushell@kpmg.ca

kpmg.ca/forensic



© 2004 Blackwell Publishing Ltd, *Journal of Internal Medicine* 255: 103–110



PRESIDENT'S MESSAGE

APRIL 2019



April showers bring May flowers, right? Let's all hope the snow is finally heading back to the Arctic and we can pack up our winter gear and bring out the shorts and sandals!

Our 2nd annual Battle of the Bands event is just a few weeks away, with 7 bands featuring your insurance industry peers! Make sure to mark April 25th in your calendar Tickets are available online --<https://www.kw-oiaa.ca/events> . Each band must include members from our industry and this year we have a wide range of industry members coming out to represent: DKI Golden Triangle, Xpera, Winmar Hamilton, Samis Law, Strigberger Brown Armstrong LLP, Centric Investigation Services and Economical Insurance. Come cheer on your peers and have a rocking good time!

Also make sure to mark your calendar for June 20, 2019 for our Annual John McHugh Memorial Golf Classic, which will be held at Ariss Valley Golf and Country Club. Check out our website for more details! Lets all start crossing our fingers for a beautiful day!

As always, if your company or organization have a celebration coming up or a special event or maybe even a promotion or new hire you want to celebrate or have showcased, let us know! We want to help you get the word out in our bulletin.

**Thank you,
Carrie Keogh
President of K-W OIAA**

K-W OIAA EXECUTIVE COUNCIL 2018-2019

Carrie Keogh

President

Gore Mutual Insurance Co.

800-265-8600 ext. 2545

Email: ckeogh@goremutual.ca

Ellie Celestine

Treasurer

The Co-operators

519-618-1211

Email: ellie_celestine@cooperators.ca

Charlene Ferris

Past President

The Cooperators/Coseco Insurance

877-682-5246 ext. 272280

Email: charlene_ferris@cooperators.ca

Lisa Dobson

Director

The Co-operators

519-618-1222

Email: lisa_dobson@cooperators.ca

Randy Henderson

Social Director

Arcon Forensic Engineers

1416-492-2525 ext 36

Email: randy.henderson@arconforensics.com

Manish Patel

Bulletin Director

Paladin Security Group

647-883-7348

Email: mpatel@paladinsecurity.com

David Bushell

Financial Secretary

KPMG Forensic 519-

747-8882

Email: dbushell@kpmg.ca

Jaime Renner

Vice President

Economical Insurance

519-570-8500 ext. 43031

Email: jaime.renner@economical.com

Jeff Cronk

Secretary

Curo Claims Services

866-952-2876 ext. 1240

Email: jcronk@curocanada.com

Leeann Darke

Director

The Co-Operators

519-618-1230

Email: leeann_darke@cooperators.ca

Jennifer Brown

Provincial Delegate

Economical Insurance

519-570-8500 ext. 43375

email: jennifer.brown@economical.com

Ashleigh Leon

Social Director

Miller Thomson LLP

519-593-2427

Email: aleon@millerthomson.com

Kristin McCutcheon

Web Director

FirstOnSite

226-338-0708

Email: kmccutcheon@firstonsite.ca

If you have any questions,
concerns or comments, please do
not hesitate to contact any of the
above committee members.

IN THIS ISSUE...

| | |
|--|--------------------|
| President's Message | Page 1 |
| 2018-2019 K-W OIAA Executive | Page 2 |
| Social Chit Chat | Page 4 |
| Provincial Delegate Report | Page 5 |
| 2018-2019 K-W OIAA Events | Page 6 |
| 2019 Provincial Claims Conference | Pages 7-9 |
| KW-OIAA 2019 Election Info | Page 10 |
| Battle of the Bands 2019 | Pages 11-12 |
| 2019 K-W OIAA Charity Golf Tournament | Pages 14-15 |
| CEP-SINTRA: Snow Covered Roofs | Pages 17-18 |
| Miller Thomson: Choice of Medical Assessor May Depend on Previous Assessments | Pages 26-28 |
| Advertisers' Index | Page 59 |

Click here to Like us on Facebook →



Click here to Join us on LinkedIn →



Click here to Follow us on Twitter →



Click here to Visit our website →



SOCIAL CHIT CHAT

April 2019



In a Chapter the size of KW, there are always things happening with our Social members. We want to share those accomplishments, promotions, changes in employer, marriages and anything else that you might feel is significant. If you're really bold and rather shameless, share with us "three things most people don't know about me..." and we will publish them to the world, or at least the K-W OIAA Chapter!! From what I've experienced over the years, we have a very diverse and incredibly interesting group of social members – let's celebrate that diversity and learn more about each other.

See you at the Battle of the Bands!!

Kindest regards,
Your Social Director,
Randy Henderson





PROVINCIAL DELEGATE REPORT



As Provincial delegate, I have had the opportunity to, once again, work alongside Michael McLeod, this time with him as the OIAA President. As his term is coming to an end very quickly, I reflect on the past 9 months in this role, working on the OIAA with these boards is always a great time. I have met so many great people from within this organization and this industry that I am glad to know. Within our ranks, I get to work alongside some of the most talented and brilliant people. I'm so glad to have had this opportunity.

For those of you who don't know what exactly my role is, I am the KW delegate, which means I work for both the local K-W OIAA and the OIAA. It is a very rewarding position to hold as I get to work alongside some extraordinary individuals from this industry on a provincial and local level and they hold some amazing events and seminars.

In March, elections were held for the OIAA Senior Executive's Secretary position. Congratulations to Terry Doherty on your election to Secretary. We look forward to what he brings to the OIAA in the coming years.

Upcoming 2018 Provincial OIAA events

April 11, 2019- Toronto Elections and Seminar from Kadey BJ Schultz

Topic: Excellence and #metoo: What to Learn and What to Do

Sheraton Parkway Toronto North Hotel and Suites

Register here: <https://www.oiaa.com/events/2019-april-meeting-and-toronto-elections/>

May 2-3, 2019

Provincial Conference- Ottawa Details about this event can be found here:

<https://www.wearetiaa.com/2019-conference> or

<http://ovaa.ca/events/oiaa-claims-conference/>

Provincial event details and sign up are available at oiaa.com .

Regards,

Jennifer Brown

K-W OIAA Chapter, Provincial Delegate

EVENTS SCHEDULE 2018-2019

**April 25, 2019 - Election Night & Battle of the Bands-
Jennifer Brown, Randy Henderson & Charlene Ferris**

Election for positions available on the board, Members wishing to join the board must be in good standing with the K-W OIAA.

Any Member of the OIAA with a Band is encouraged to sign up to play and see if you are the top band in K-W

May 23, 2019 - Innovation - Kristin McCutcheon and Jeff Cronk

****NEW DATE**

**June 20, 2019 - John McHugh Memorial Golf Tournament:
Carrie Keogh & Jaime Renner
Ariss Valley Golf & Country Club**

All events will be held at Golf's Steak House and Seafood unless otherwise noted.



Registration is Open!!!



Booth Registration:

Cost: \$1300+HST

- 👤 Includes 1 free pay to entire event and a 8x8 booth space

Registration Login:

<https://www.eventbrite.ca/e/ko-in-the-capital-tradeshow-booth-registration-tickets-49622291610>

Early bird attendee registration (until Feb28th):

Cost: \$150.00 + HST

- 👤 Includes 2 day pass to tradeshow, educational seminars, all meals and social events

Registration Login:

<https://kointhecapital-registration.eventbrite.ca>

****Cost to rise to \$200 after February 28th, 2019****

For additional sponsorship opportunities:

Please email oiaa2019.ko@gmail.com

www.ovaa.ca www.oiaa.ca www.wearetiaa.com



KO

KINGSTON OTTAWA

KO in the Capital 2019 Claims Conference May 2-3, 2019 Shaw Centre, Ottawa

Sponsorship Info

Fly Weight \$1,750

Logo on OIAA, OVAA and TIAA websites
Logo on event website
Logo rotating on screen at events
Logo at registration
Logo on related event publications

**10 Fly Weight Sponsors
Available Remaining**

Prize Fighter \$10,000

1 Available
Marquee speaker
trade show booth
SOLD
Speaker
signage at
trade show and
booth
Logo on swag bag
4 passes to the event

Heavy Weight \$5,000

Choose from 9 Heavyweight
Sponsorship Opportunities Available
WINE AT DINNER (FRIDAY)
~~COMPANY NAME ON LANYARD~~
~~FRIDAY DINNER~~
FRIDAY LUNCH
MUSIC SPONSOR
GUEST SPEAKER AT LUNCH
~~COCKTAIL HOUR ON FRIDAY~~
~~MIX AND MINGLE ON THURSDAY~~
LOGO ON WATER BOTTLES
CHARGING STATION
SWAG BAGS
2 COFFEE BREAKS ON FRIDAY
FRIDAY BREAKFAST
Includes one free pass to event

(**Prize Fighter and Heavy Weight also includes all additional sponsor features from Fly Weight category)**

For info on securing a sponsorship spot, and other inquiries
please contact oiaa2019.ko@gmail.com





Main Event – May 3rd

7:30am Breakfast / Introductions

| | Ring 1 | Ring 2 |
|---------------|---|--|
| 8:30–10:15am | Sports Injury Panel | Medical & Recreational Marijuana Seminar |
| 10:15–10:30am | Break | Break |
| 10:30–Noon | Head Injury Panel | Prepping Experts for Trial |
| Noon–1:30pm | Lunch & Guest Speaker Bruce Cooke | |
| 1:30–3:00pm | AB-BI CAT Injuries | Investigator vs Engineer |
| 3:00–5:00pm | Free time to explore the city | |
| 5:00–6:30pm | Networking & Cocktails | |
| 6:30–Midnight | Dinner & Dance Music by The Hornette's | |

For info on securing a sponsorship spot, and other inquiries
please contact oiqa2019.ko@gmail.com





Save the date in your calendar...**Thursday April 25 for Election Night!**

Are you interested in adding your voice to the KW-OIAA Board? Do you have great ideas and looking for a place to share them? Then this is the place for you! In order to run for a position on the board, you must be an adjuster member in good standing, or a current social member to apply as an industry partner.

Open Positions:

- **Secretary** (Adjuster)
- **Director** (2 year commitment for Adjuster)
- **Social Director** (2 year commitment for Industry Partner)

If you have interest in the positions of Bulletin Editor or Web Director please reach out to Charlene Ferris to discuss. If you are interested in joining the KW-OIAA board, please reach out to Charlene Ferris.





Save the date in your calendar...**Thursday April 25!**

At **Maxwell's 35 University Avenue East, Waterloo** – enjoy the true concert experience!

2018 Champs **Haz-Matt (DKI Golden Triangle)** are returning to defend their title.

Will they be 2-time winners? Or will a new challenger come out on top?

Here is who they are going to be up against!

- **Under Surveillance (Xpera)**
- **Male Order Brides (Winmar Hamilton)**
 - **Big Wigs (Samis Law)**
- **The Rural Jurors (Strigberger Brown Armstrong)**
- **I'm With The Band (Centric Investigation Services)**
 - **Solarus (Economical Insurance)**

We are full!!

7 bands have committed – are you ready for a fun night filled with music?

This means if you miss out, you'll need to get in early for next year!

Cost to attend Battle of the Bands will be \$25/person.

If you are interested in sponsoring the event – there is the opportunity to be an event sponsor for \$150. Contact [Charlene Ferris@cooperators.ca](mailto:Charlene_Ferris@cooperators.ca)

All funds raised from sponsoring will be given to charity!

GET YOUR ROCK ON!



SHIRT



DO YOU HAVE A BAND T-SHIRT HIDING SOMEWHERE IN YOUR CLOSET?

BRING IT OUT AND WEAR IT WITH PRIDE TO OUR BATTLE OF THE BANDS NIGHT!

LET'S SEE HOW MANY DIFFERENT BANDS GET REPRESENTED!



The K-W OIAA is pleased to be hosting the John McHugh Memorial Golf Classic at Ariss Valley Golf and Country Club. Please join us for a day of golf and fun among your industry friends. Every year the K-W OIAA president chooses a charity to be the beneficiary of a generous donation that will greatly assist that organization. This year the chosen charity is **Nutrition for Learning**.

PLEASE REGISTER ONLINE: <http://www.kw-oiaa.ca/>. REGISTRATION DEADLINE IS WEDNESDAY JUNE 12, 2019.

Itinerary for Thursday June 20, 2019:

| | |
|---------|--------------------------------|
| 8:30am | Registration Opens - Breakfast |
| 10:00am | Shot Gun Start |
| 12:00pm | Lunch on the turn |
| 4:00pm | Approximate time for dinner |

Players Golf Package

\$155 HST inclusive per person, Fees include one round of 18 holes of golf, use of a cart, breakfast, lunch and dinner. A team of 4 will be \$620.00

Other Options:

All Day Food Tickets: \$50 (Breakfast, lunch and dinner)

Dinner Only Tickets: \$35

Sponsorship

A generous donation will be made to **Nutrition for Learning** from all hole sponsorships.

Hole Sponsorship (2 types) is available for \$225. A prize hole (longest drive/ closest to the pin) requires sponsors to bring both a male and female prize in addition to sponsoring the hole. A non-prize hole has no additional requirements. ****Please note:** You are responsible for providing your own tent, table and chairs.

Title Sponsorship is also available should you be interested:

You may display your banner at this portion of the event should you sponsor these.

Breakfast Sponsor- \$500

Lunch Sponsor- \$1000

Door Prizes are also a welcomed and are drawn for at the dinner. If you are donating a door prize, please advise Carrie Keogh (ckeogh@goremutual.ca) or simply bring it with you with a business card attached to it.

Questions? Please contact:

Carrie Keogh (ckeogh@goremutual.ca) or by phone 800-265-8600 Ext 2545

Jaime Renner (jaime.renner@economical.com) or by phone 519-570-8500 Ext 43031



REGISTRATION DEADLINE IS WEDNESDAY JUNE 12, 2019.

*****Please note that soft spikes and dress code will be strictly enforced*****

Directions

Ariss Valley Golf and Country Club is located just outside of Guelph on Road #86 (Elmira Road). They are #5700 on Road #86 North of Guelph between Marden Road and Country Road 51. Phone- 519-824-1551

Player 1

Name: _____
 Employer: _____
 Telephone: _____
 Email: _____

Player 2

Name: _____
 Employer: _____
 Telephone: _____
 Email: _____

Player 3

Name: _____
 Employer: _____
 Telephone: _____
 Email: _____

Player 4

Name: _____
 Employer: _____
 Telephone: _____
 Email: _____

Sponsorship

Prize hole Sponsor (\$225) _____
 I would like to sponsor a hole (\$225) _____
 I would like to sponsor breakfast
 (\$500) _____
 I would like to sponsor lunch
 (\$1000) _____
 I would like to donate a door prize _____

Other Ticket Options

Extra Breakfast, Lunch and Dinner
 tickets at \$50 per person. _____
 Extra Dinner Ticket at \$35 per person. _____

Payment Information

Golf Total (\$620 per team) \$ _____
 Extra Tickets Total \$ _____
 Sponsorship Total \$ _____
 Total Amount Encl. \$ _____

Contact Us

Golf/Sponsorship Questions: Carrie Keogh
 800-265-8600 Ext 2545 or
ckeogh@goremutual.ca

PLEASE REMIT PAYMENT TO:

KW OIAA
 PO Box 40079
 75 King St S Waterloo Ont., N2J1P2



TIME FOR SOMETHING NEW!

New law firm.
Same practical, timely
and efficient legal services
you have come to expect from us.

Strigberger
Brown
Armstrong
LLP

Lisa Armstrong | Suzanne Armstrong | Monika Bolejszo | Stas Bodrov | Julianne Brimfield
Fiona Brown | Gabriel Flatt | Tim Gillibrand | Krista Groen | Devan Marr | Andrew Mercer
Caroline Meyer | Kathleen O'Hara | Dan Strigberger | Shalini Thomas

801-480 University Avenue Toronto ON M5G 1V2 | t. 416 679 2781
500-1 Blue Springs Drive Waterloo ON N2J 4M1 | t. 519 279 0320
info@sbalawyers.ca | sbalawyers.ca

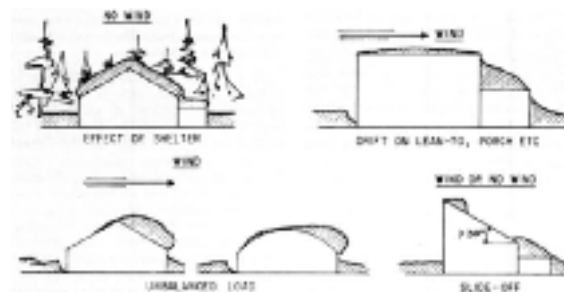
SNOW COVERED ROOFS

By [Jeffrey Howie](#) P.Eng., [Carla Ladner](#) P.Eng.

Each winter, during periods of significant snowfall, the buildup of snow on roofs can be a real concern.

Snow accumulation depends on many factors, including wind direction, building orientation, roof pitch, shelter, and, of course, weather conditions. For example, houses are more at risk when the wind is blowing from the west and the lower side of the house is to the east. Trees and outdoor buildings also play a vital role in the snow that accumulates on the roofs.

Most houses and buildings are built to withstand Canada's harsh winters, but some roofs are more likely to collapse than others: roofs at different altitudes (i.e. slopes, storey and a half), and flat roofs with projections (air units, exhaust stacks).



Complete collapses occur more frequently in older buildings, farm buildings and cottages, as well as in some community buildings, such as arenas built with minimal funds and without professional supervision. However, partial failures can also happen, and occur quite frequently in roof areas where high loads of drifting snow accumulate (i.e. porches, awnings and slopes).

Other factors, as non-compliance with building code requirements, construction or maintenance issues, lack of inspection and weight and load distribution may also cause the roof of an older building to collapse due to snow accumulation. The weight of the snow can be unevenly distributed, with concentrated snow accumulation in a particular area, which can create increased snow load on some parts of the roof. The slope of the roof (3/12 pitch or less) can affect the buildup, as snow is less likely to slide on flatter roofs. Improper modifications may also contribute to roof collapse due to snow (i.e. insulation without adequate roof ventilation, roof repair on three or more layers of shingles, modifications resulting in lower load tolerance of the roof and inadequate maintenance). Drifting snow can accumulate against roof protrusions or uneven roof lines, such as roofing equipment or walls between roof levels (which increases the load on the roof in a particular area). In addition, rain falling on accumulated snow will increase its weight, the snow becoming denser and heavier. With more ice buildup, our roofs become even more loaded.

When a roof collapses, homeowners must be concerned about the heat within the building. To be safe, make sure water is turned off, including the sprinkler system. A temporary heating

system may be required to protect the foundation from freezing. If the roof has partially collapsed, it is imperative that the remaining roof structure be temporarily shored or demolished.

In order to determine the extent of damage to the content and equipment, the services of a technical expert may be required to ensure that the remaining structure of the building (roof, walls, floor framing and / or foundation) has not been structurally compromised, and to determine whether the building is safe to enter and retrieve the remaining equipment and content.

If you have any questions or would like to learn more about this topic, please contact CEP-Sintra's Structural and Civil Engineering team at 877 686-0240 or info@cep-sintra.ca



Jeff Howie, P.Eng.

With CEP-Sintra since 2017, 20 years of experience

As a forensic engineer, Mr. Jeff Howie specializes in the investigation of structures damaged in various types of incidents. This includes structural failures, construction defects, fire damaged buildings, code compliance and constructability issues. His familiarity with the construction process, in both large and small-scale projects, allows him to provide superior insight into all types of failures.



Carla Ladner, P.Eng.

With CEP-Sintra since 2006, 18 years of experience

As a forensic engineer, Ms. Carla Ladner specializes in the investigation of structures damaged in various types of incidents. This includes structural failures, construction issues, fire damaged buildings, code compliance and constructability issues. Ms. Ladner has extensive experience in the review of buildings as they relate to construction issues and code compliance.

EXPERTISE

Civil

- Structural analysis, structures, and foundations
- Site Inspection
- Concrete
- Steel
- Wood
- Masonry
- Construction Defects
- Standards and Code Compliance
- Roofing Systems
- Drainage Issues



ACCESS
RESTORATION
SERVICES

WATER
FIRE
STORM
BUILD

24/7



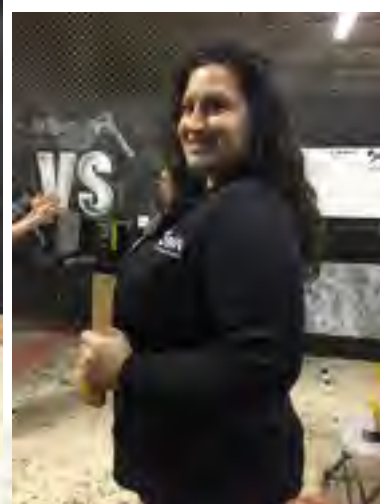
EMERGENCY RESPONSE

1-855-848-5127

www.ARSRESPONDS.com

YOUR CANADIAN EMERGENCY RESPONSE COMPANY





• Fire • Flood • Wind • Contents



First General

Property Restoration Specialists

Waterloo Region

227 Riverbend Drive, Kitchener

519.584.7000

Grey - Bruce

540 1st Street, Hanover

519.364.1317

A **Thomson** Group Inc. company



INSURANCE. DEFENCE. LAWYERS.

At Miller Thomson, we recognize the need to assess and manage risk and deal with it effectively. Our Insurance & Risk Management group is one of the largest independent insurance practices in Canada and our lawyers are committed to offering insight, creative thinking and maximum value to all of our clients, all of the time.

Contact:

Helen D.K. Friedman

Partner

519.593.3223

hfriedman@millerthomson.com

James Bromiley

Partner

519.593.3203

jbromiley@millerthomson.com



MILLER THOMSON

AVOCATS | LAWYERS

MILLERTHOMSON.COM

VANCOUVER · CALGARY · EDMONTON · SASKATOON · REGINA · LONDON · KITCHENER-WATERLOO · GUELPH · TORONTO · VAUGHAN · MARKHAM · MONTRÉAL





Trust Our Expertise and Experience for Your Claims Investigations.

Windsor & Guelph, ON, Dartmouth, NS

[Click Here](#)

www.hcei.ca

Forensic Engineers Specializing in:

- Motor Vehicle Accident Investigation & Analysis
- Extraction & Interpretation of Electronic Data Recorders
- Fire Origin & Cause of Mobile Equipment
- Product Failures of Mobile & Industrial Equipment
- Injury Biomechanics
- Scientific Visualizations (Animations)
- Transportation Safety Studies
- Road & Bridge Evaluation, Design & Maintenance
- Traffic Signal Analysis & Design
- Construction Zone Layout, Signing & Analysis

Toll Free: 1.866.440.4493

Guelph Office: 519.822.7234

Kent McKee, P.Eng.

Paul Ferrara, P.Eng.

Offering 24 Hour, 7 Days a Week
Emergency Response



Choice of Medical Assessor May Depend on Previous Assessments



Authored by:

Evan Bawks

Associate, Waterloo

519.593.3201

ebawks@millerthomson.com

In the normal course in both Accident Benefits and Personal Injury claims, insurers often have the claimant/plaintiff assessed by a medical professional in a variety of contexts. However, their choice of assessor could, in some circumstances, play a role in whether a future assessment is granted under a different statute or regulation.

In the accident benefits world, assessments are done through section 44 of the *Statutory Accident Benefit Schedule*, O. Reg. 34/10, which allows examinations at the behest of the insurer for the purposes of determining entitlement to various benefits, as often as reasonably necessary. In the personal injury world, or ongoing accident benefits cases that are still in litigation in the Superior Court, a court may order that an adverse party can obtain an examination of a plaintiff who puts their physical or mental health into question. This is provided for by section 105 of the *Courts of Justice Act*, R.S.O. 1990, Ch. c.43, with the procedure for the motion seeking the order provided for by Rule 33 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.

When claims are in litigation, it is often taken for granted that a defendant has the right to have the plaintiff undergo an independent medical assessment, often to counter reports and assessments conducted by the plaintiff's hand-picked experts. There are limits to this choice of assessor – while the defendant usually has broad latitude to pick an initial assessor, courts will more closely scrutinize requests for multiple assessors. Additionally, the interplay between the accident benefits assessments

and litigation assessments may present some further limits on a defendant's choice of assessor.

In Ontario, the court in *Tseguy v. McGuire*, 2000 CarswellOnt 1451 (S.C.J.), reiterated that the purpose of section 105 and Rule 33 is to ensure that a defendant has full rights of production and discovery, once an action has been commenced and pleadings exchanged. These latter provisions ensure that if a party puts his or her medical condition in issue in a civil proceeding, the opposing party can test that allegation under fair conditions. The court went further, and noted that the choice of physician to conduct the defence medical examination is a matter of importance to the defence. Medical reports contribute to settlements and constitute the crucial expert evidence on which a court relies to do justice between the parties, if the matter proceeds to trial. The policy behind the defence medical exam is to uphold the right of the defendant to conduct his or her defence and to assist the court at trial by furnishing expert evidence that is subject to the adversarial process.

In *Tseguy*, the plaintiff had been previously assessed at the outset of litigation under section 258.3 of the *Insurance Act*. The plaintiff refused to attend a defence medical assessment, on the grounds that they had already attended one. The court in *Tseguy*, in ordering the assessment, found that the provisions were not in conflict and that medical examinations under the *Insurance Act* were done for different purposes and timing than those provided for by the *Rules* and the *Courts of Justice Act*.

Disability insurers have also dealt with this issue. In *LaForme v. Paul Revere Life Insurance Co.*, 2006 CarswellOnt 6441 (Div. Ct.), the Divisional Court considered a case in which an assessment was done pursuant to the contract of insurance. A medical assessment later sought in the course of litigation by the insurer. The court in *LaForme* found that the rights to conduct the examinations served separate

purposes. In the policy of insurance, the insurer contracted for rights of examination: those rights form part of the bargain between the insured and the insurer, whereas the *Courts of Justice Act* and the *Rules of Civil Procedure* created a statutory regime to promote fairness in the litigation process and to uphold the right of the defendant to conduct its defence. The purpose of section 105 and Rule 33 was to "level the playing field". The defence generally had a *prima facie* entitlement to an initial medical examination, without requiring justification.

However, the situation has become less clear, particularly when dealing with prior accident benefits assessments and assessments in the course of the tort action. Courts have found that a prior medical examination under one statute or its regulation is relevant to the question of whether a medical examination properly may be ordered under the other statute or its regulation.

This was the case in *Gracey v. Skinner Estate*, 2000 CarswellOnt 3405 (S.C.J.), where the Court distinguished *Tseguy* and found that the medical examination provisions under the *Schedule* and those under the *Rules* should be given compatible interpretations, and are "presumed to operate together harmoniously and to reflect a consistent view of the subject in question". The court reasoned that the assessments sought addressed the same subject matter: a medical assessment of an injured person seeking compensation. While the claims were different, accident benefits entitlements relate to damages entitlements; accident benefits are deductible from tort damages, AB medical assessments are admissible evidence in tort actions, and there was a potential burden on a plaintiff of excessive medical examination by the same insurer, acting in different capacities. (In this case, the same insurer provided accident benefits and defended the tort action.) As a result, the court in *Skinner Estate* found that the tort defendant was entitled to a further medical examination of the plaintiff, but limited the choice to one of the previous assessors.

While the defence typically has a *prima facie* right to choose its assessor, under *Sousa v. Akulu*, [2006] O.J. No. 3061 (S.C.J.), the court has discretion to order the assessment be conducted by another assessor.

Skinner Estate was followed in *Moore v. Royal Insurance Co. of Canada*, 2006 CarswellOnt 231 (S.C.J.), where the accident benefits insurer sought a psychiatry assessment pursuant to section 105 of the *Courts of Justice Act* in a dispute over the claimant's entitlement to caregiver benefits, after the claimant

had already been examined by two orthopaedic surgeons at the request of the insurer before the start of the dispute. The court found that a request for an insurer for a medical assessment was a second, if not a third, request for a medical examination.

In contrast, in *Jeyanthiran v. Ratnam*, 2009 CarswellOnt 587 (S.C.J.), the insurer for the tort defendant (and had been the SABS insurer) sought two medical examinations pursuant to section 105 of the *Courts of Justice Act*. The plaintiff opposed the motion on the grounds that there had already been several medical assessments pursuant to the SABS and that to allow the assessments would amount to an abuse of process. The court rejected this argument and found that the defendants were entitled to conduct their own examinations independently of those conducted under the SABS, including that there was a *prima facie* right to the first of the two examinations. The court found that the SABS assessments did not necessarily preclude further assessments.:

- The purpose behind section 105 of the *Courts of Justice Act* and Rule 33 was to ensure that every defendant has a full right of production and discovery.
- The reports of the SABS examiners did not address all the issues in the proceeding.
- This was not a situation of abuse of process, but of defence counsel attempting to level the playing field.

As one can see, there are two potentially competing principles. First, defendants have a *prima facie* right to an initial medical assessment and usually their choice of assessor. On the other hand, previous assessments conducted under a different statutory structure, and often for different purposes, may nonetheless be relevant to the question of whether a medical assessment may be ordered. This was discussed in *Anderson v. 45859 Ontario Ltd. (c.o.b. Teachers Life Insurance Society (Fraternal))*, [2010] O.J. No. 6041 (S.C.J.), which found both that the case law was "very clear" that every defendant, adverse in interest and separately represented, is entitled to their own defence medical examination and also that it was "settled law" that a prior medical examination under one statute or regulation is relevant to the question of whether a medical examination properly may be ordered under the other statute or regulation.

Factors to be mindful of can include whether the insurer that sought the previous assessments is the

insurer seeking the current assessment and whether the previous assessment was conducted before or after litigation commenced. Insurers that may be playing the dual role of accident benefits insurer and instructing the tort defence should consider that a choice of assessor earlier on in the accident benefits claim may have an impact down the road on their choice of assessor in the tort claim.

Evan Bawks is an associate in the Waterloo office of Miller Thomson LLP. He is an insurance defence lawyer whose practice includes accident benefits disputes and tort cases involving motor vehicle accidents, property claims, and occupiers' liability claims.

www.millerthomson.com



Follow us on:



Vancouver Calgary Edmonton Regina Saskatoon London
Kitchener-Waterloo Guelph Vaughan Toronto Markham Montreal

CEP SINTRA

NEW OFFICE IN KITCHENER-WATERLOO

Headed by **Paul Gullekson, P.Eng.**, who brings his extensive **Collision Reconstruction** experience to the region, the launch of the full-service **Waterloo office** increases the reach of **CEP-Sintra's** team throughout Southern Ontario. Paul is available to complete collision investigations, and coordinate a variety of loss investigations, including fire, property and structural investigations with our engineers already in the region.

CONTACT INFO

Waterloo Office

180 Northfield Dr. West, Unit 4
Waterloo, ON N2L 0C7

Office 226 476-0152

Mobile 519 570-7129

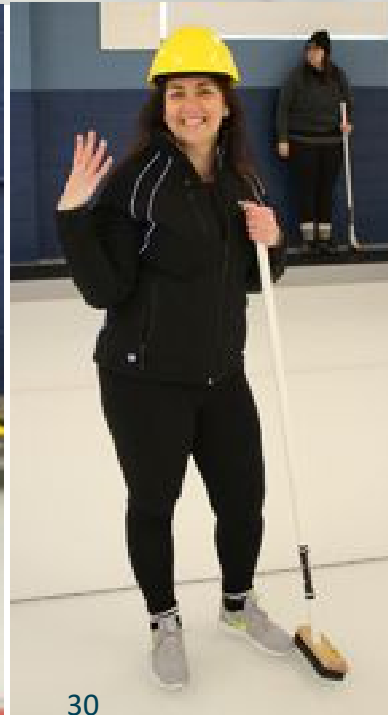
pgullekson@cep-sintra.ca



**Coast-to-coast,
Forensic Engineering**

cep-sintra.ca

MONCTON | QUEBEC CITY | MONTREAL | OTTAWA | OSHAWA | WATERLOO | CALGARY | EDMONTON | VANCOUVER







The Textile Experts at CRDN respond immediately to the needs of adjusters and homeowners alike.

We deliver peace of mind and restore life's irreplaceable treasures.

Saving textiles...
Salvaging precious memories.

CRDN of Western Ontario
855-702-CRDN (2736) or crdn.ca

Respond. Restore. Resume.™



Ground Force is equipped to handle all soil remediation, whether it is emergency spill response or cleaning up a brownfield site with hydrocarbons, oil, fuel, other petroleum products, VOCs, chlorinated and non-chlorinated solvents, heavy metals, paints, PCBs, leachate, Manure or any other pollution / contaminants that may be on site due to either a spill or previous use of the land.

24 HOUR EMERGENCY RESPONSE
1.855.664.0767 www.gfei.ca

MCINTYRE MEDIATIONS

Quality Mediation Services founded upon a depth of experience and trusted counsel in litigation and insurance claims. You are in capable hands with **Sandy McIntyre** or **Randy Carter** as your mediator.



SANDY MCINTYRE
sandy@mcintyremediations.ca



RANDY CARTER
randy@mcintyremediations.ca

MARY JAKIELA | Mediation Coordinator | mary@mcintyremediations.ca

MCINTYRE MEDIATIONS | 4275 King Street East Unit 135 | P 519-219-4430
www.mcintyremediations.ca | Kitchener, ON N2P 2P3 | F 519-219-4432





At CARSTAR, we understand that cars are more than just metal. They are our best friends and our workhorses. They are our security and our freedom. Our cars prove to us that sometimes life isn't about the destination, but the journey.

CARSTAR offers:

- Collision repair
- Auto glass repair & replacement
- AIR MILES reward miles



CARSTAR Cambridge 519-623-2100
 CARSTAR Elmira 519-669-3373
 CARSTAR Kitchener 519-653-2540
 King Street (Kleenette)
 CARSTAR Kitchener 519-571-1800
 Shirley Drive
 CARSTAR Waterloo 519-888-9522



Not all accountants are MDD Forensic Accountants.



With 42 offices on 4 continents, over 30 language fluencies, 16 distinct professional designations and a work history that spans more than 130 countries and 800 industries, we are truly world-class experts with a global reach.

To find out how we can help you, contact us today.

Sheri Gallant, CPA, CMA, CFF
 sgallant@mdd.com | 519.432.1123

• mdd.com

VANCOUVER | CALGARY | EDMONTON | WINNIPEG | LONDON
 HAMILTON | TORONTO | KINGSTON | MONTREAL | HALIFAX



RELECTRONIC-REMECH Inc.

ELECTRONIC & MECHANICAL LOSS RECOVERY

LARGE LOSS RECOVERY SPECIALISTS FOR ALL TYPES OF CLAIMS.
 ELECTRONIC and MECHANICAL FAILURES, LIGHTNING CLAIMS, RESTAURANT LOSSES and DATA RECOVERY.



WHEN LIGHTNING STRIKES

Evaluations and expertise for recovery and/or repair to your electronics and equipment.

24 Hour Emergency **1-800-465-9473**

Send all claims to: claims@relectronic-remech.ca

Kitchener-Waterloo | Mississauga & GTA | London | Ottawa | Barrie | Hamilton
 800-465-9473 • 519-884-8664 877-282-2252 • 905-672-0947 519-884-8003 613-789-9009 705-737-2002 905-540-4004

Assessments | Communications | Recommendations
www.relectronic-remech.ca







GET THE WHOLE STORY

Larrek Investigations has gained a reputation as one of the leading investigative companies in the province, as we are committed to continually improving the quality of products and services available within the investigative industry.

When you choose Larrek Investigations, you will be working with a team of experts handling each assignment in the utmost discreet, ethical and professional manner. We ensure that our clients receive the best results.

OUR PROFESSIONAL SERVICES INCLUDE

Accident Benefits Claims

Bodily Injury Claims

Subrogation Claims

People & Property Locates

Corporate Investigations

Surveillance Investigations

Priority Investigations

Witness & Claimant Interviews & Statements

Online Presence & Social Media (OSINT)

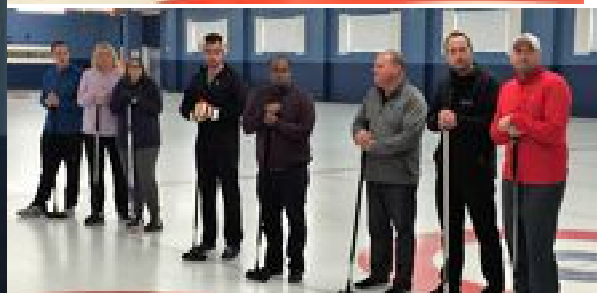
Special Investigations (SIU)

YOUR INVESTIGATION EXPERTS

1.888.576.3010

LARREK.COM







Your Full-Service 24/7 Environmental Services Provider

Itech Environmental Services is an emergency spill response and environmental remediation company with locations in Barrie, Brantford, and Ottawa. Our highly skilled personnel provide service throughout Ontario,

supporting residential, industrial, commercial, institutional, and government entities. Itech also serves the insurance industry, with a wealth of large loss experience gained with industry leading insurance providers.



24/7 Emergency Response - 1-877-324-4402

itech
Environmental Services

Emergency Spill Response
Spill Remediation
Excavation
Tank Removal
Demolition
Haulage & Disposal
Asbestos Abatement
Mould Remediation
Confined Space Services
Industrial Cleaning
Water Treatment
Electronics Restoration

www.ItechEnvironmental.ca

ON SIDE RESTORATION.

Performance demonstrated.
Every day.

Following project TIMELINES and COMMUNICATING when they have changed are important to us too. We both have KPI's to meet and our goal is to make it easy for everyone to achieve them.

Kitchener / Waterloo

Unit D, 5 Washburn Dr., Kitchener
Colin Harwood, Branch Manager

WWW.ONSIDE.CA

Proud WICC Platinum Level National Sponsor.



CALL
1-888-663 6604

FIRE | FLOOD | WIND | CONTENTS | BIOHAZARD







Paladin Security

INVESTIGATION SERVICES

We're a passionate Canadian Security and Investigation company with leading edge resources and expertise covering all asset protection specialties. Paladin employs some of the most knowledgeable investigators in the industry, with years of experience conducting and managing large-scale investigations within corporate frameworks across Canada and abroad.

With 26 offices from coast to coast in Canada and 22 offices within the United States, Paladin's international reach has you covered. Since 1976 we have specialized in providing our insurance clients with real-time information, which allows them to make more informed and strategic decisions for their organizations. Our dedicated teams across the country have extensive experience and have conducted countless hours of surveillance relating to personal injury, long term disability, and workers compensation claims.

- Surveillance
- Open Source Analysis
- Home Visits
- Interviews / Statements
- Litigation Support
- Locates
- Liability Investigations
- Contestable Death Claims

Discover the ***Paladin Difference***



PALADIN SECURITY GROUP PROVIDES COAST TO COAST INVESTIGATION SERVICES

Contact Manish Patel, Manager of Investigation Services, Eastern Canada.

647.883.7348 MPatel@paladinsecurity.com

paladinsecurity.com







THE NATION'S LARGEST CONSULTING FORENSIC ENGINEERING AND FIRE INVESTIGATION FIRM

With over 25 forensic experts in 10 locations across the country, we are always here to assist you!

- FIRE & EXPLOSION INVESTIGATION
- STRUCTURAL ENGINEERING
- ELECTRICAL ENGINEERING
- MATERIALS AND METALLURGICAL ENGINEERING
- MECHANICAL ENGINEERING
- CHEMICAL ENGINEERING
- FORENSIC LITIGATION SERVICES

ORIGIN AND CAUSE

DISCOVERING THE TRUTH BY DETERMINING THE FACTS

For more information about our services and expertise please visit our website at www.origin-and-cause.com



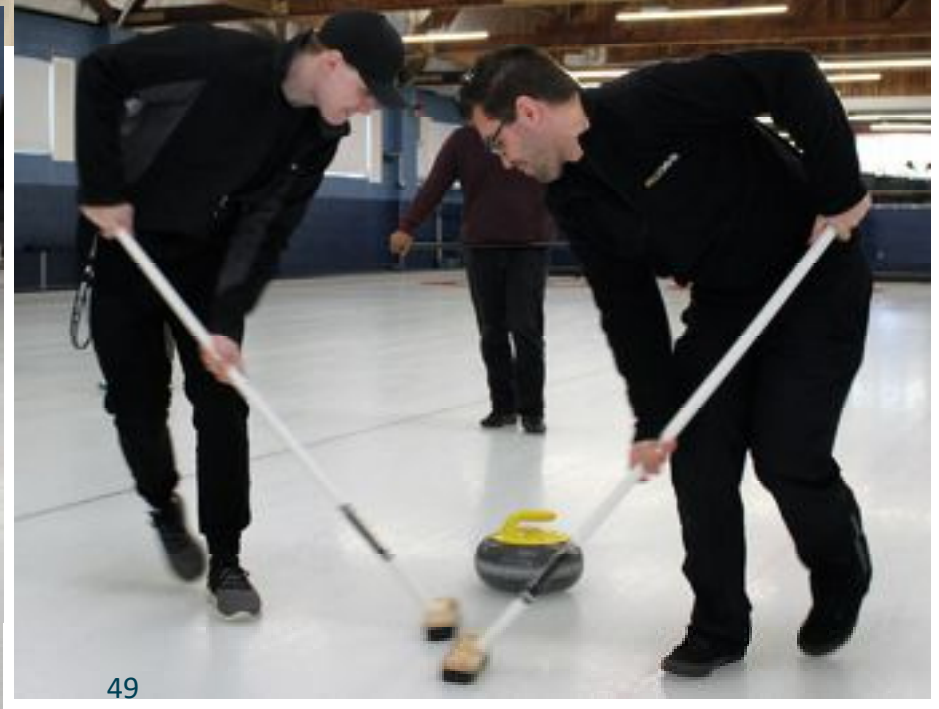
We Know Property.

Our lawyers have developed strong expertise in handling first party property damage, fraud and subrogated claims. We can advise you with respect to important legal and strategic determinations in the course of adjusting a loss. From the claims stage to litigation, we have you covered.

We understand issues facing the industry and are able to assist our clients in achieving success. Whether the route is negotiation, mediation, arbitration or trial, our skills are formidable and our reputation is untouchable. *We love a challenge.*









INVESTIGATION SERVICES

ADVANCED TECHNOLOGY • INNOVATIVE SOLUTIONS

Xpera is Canada's premier provider of **Risk Mitigation & Investigation**. We offer innovative solutions that reduce risk, minimize loss, and increase human safety.

Xpera prides itself on its use of advanced technology and procedures, up to date research, and the most detailed and factual reports in the industry. With more than 500 investigators nationwide, we provide over 100 services to a diverse base of clients.

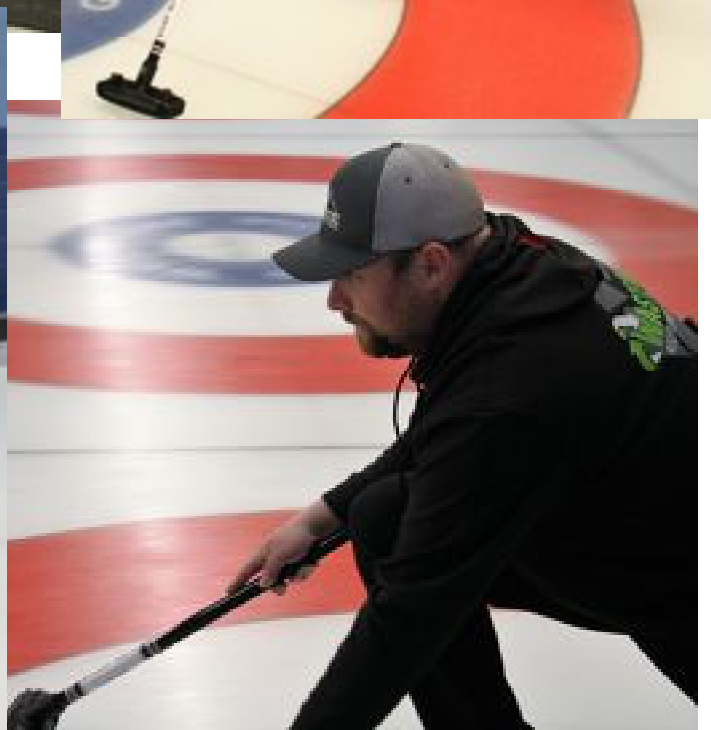
A sampling of our investigation services include:

- Surveillance
- Open Source Intelligence
- Social Media/Cyber Research
- Location of Individuals
- Interviews and Statements
- Special Investigation Unit (SIU)
- Primary Insurance
- Liability Investigations
- Photographic Evidence
- Litigation Support
- Neighborhood Inquiries
- Subrogation and Recovery



INVESTIGATION: 1.888.842.8112

XPERA.CA







DKI™

COMMERCIAL EXPERTS • ENVIRONMENTAL SPECIALISTS



KITCHENER • CAMBRIDGE
WATERLOO

1.877.458.4487

Phone: 519.624.4487

Fax: 519.624.4484

info@gtrs.ca
www.gtrs.ca



LONDON • ST. THOMAS
INGERSOLL • STRATHROY

1.866.613.8800

Phone: 519.659.8800

Fax: 519.659.3010

claims@lubnow.com
www.lubnow.com



DUFFERIN • PEEL • CALEDON

1.877.941.8141

Phone: 519.941.8141

Fax: 519.941.0167

claims@highlandrestoration.ca
www.highlandrestoration.ca



HAMILTON • HALTON
MISSISSAUGA

1.877.425.2273

Waterdown: 905.689.5298

Mississauga: 905.569.8010

info@al-care.ca
www.al-care.ca







WINMAR®



PROUD TO BE CANADIAN OWNED AND OPERATED



FOR MORE INFORMATION VISIT WWW.WINMAR.CA

GUELPH

Darrin Drake

519-826-000

KITCHENER/ CAMBRIDGE

Peter Douwes

519-895-0000

ORANGEVILLE

Darrin Drake

519-940-8400

STRATFORD

Chris Craigan

519-273-0000







2018-2019 K-W OIAA ADVERTISERS DIRECTORY

| | |
|--|---------------------------|
| Access Restoration Services | 19 |
| Arcon Engineering | Inside Back Cover |
| Carpet Department | Inside Back Cover |
| Carstar | 35 |
| Caskanette Udall | Outside Back Cover |
| CEP-Sintra | 29 |
| CRDN | 32 |
| Davis Martindale Advisory Service Inc | Inside Front Cover |
| First General Services | 22 |
| First Response Restoration | Inside Back Cover |
| DKI | 53 |
| Ground Force | 32 |
| Hrycay Consulting Engineers | 25 |
| Itech Environmental | 41 |
| KPMG | Outside Back Cover |
| Larrek Investigations | 38 |
| Lerners | 47 |
| McIntyre Mediations | 32 |
| MDD | 35 |
| Miller Thomson LLP | 22 |
| On Side Restoration | 41 |
| Origin & Cause Inc. | 47 |
| Paladin Security Group | 44 |
| Paul Davis Systems | Inside Front Cover |
| PwC | Inside Back Cover |
| Relectronic-Remech | 35 |
| Strigberger Brown Armstrong | 16 |
| Winmar | 56 |
| Xpera Risk Mitigation & Investigation | 50 |