

A Year in Review – December 2025

The Commercial List Users' Committee ("CLUC" or the "Users' Committee") is pleased to provide the following updates to the Commercial List Bar with respect to the activities of CLUC and the Commercial List.

Message from Justices Kimmel and Osborne

As always, we appreciate the opportunity to liaise with the bar through the Commercial List Users' Committee. The List continues to depend on the cooperation of counsel who appear on the List to function efficiently.

As most who are reading this CLUC Newsletter will know, the List continues to be extremely busy. We are seeing a significant increase in the number of matters overall, and particularly in CCAA proceedings, receiverships and oppression matters. Cases involving allegations of fraud and financial misappropriation are also on the rise.

Within the Court, our complement continues to be fully engaged. The Court-wide Digital Transformation Project has been launched, and the new electronic filing and case management system is functioning generally well. We appreciate both the patience of the bar with the new system (and the ongoing improvements) and the constructive feedback that we have received. The Civil Rules Review continues, and it is expected that there will be further updates in that regard early in the new year.

The Commercial List, comprised of Chief Justice Morawetz, Justices Conway, Myers, Cavanagh, Steele, Black, and Dietrich, in addition to the Co-Team Leads, continues to be well supported by our Commercial List Office team, including Trial Coordinator Alsou Anissimova and Assistant Trial Coordinators Daphne Vlassis and Mannie Maneli. Our ability to be a nimble and responsive business court depends greatly on their support.

We wish the Commercial List bar a 2026 filled with communication, co-operation and common sense, and more than a dash of civility.

Justices Kimmel and Osborne

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Retirement Tribute to the Honourable Michael Penny From Justice Barbara Conway

It is only fitting that I say a few words about my former colleague and friend, The Honourable Michael Penny (Mr. Penny), who retired on April 5, 2025.

Mr. Penny was appointed to the Superior Court of Justice on November 26, 2009. He was called to the bar in 1984, clerked at the Ontario Court of Appeal for a year, and then practiced at Torys LLP (becoming a partner in 1991) until his appointment to the bench. As counsel, he appeared at all levels of court, contributed to several professional organizations, and wrote extensively.

As a judge of this court, Mr. Penny's contributions were immediate and substantial. He served in all areas including Civil, Family, Criminal, and Divisional Court.

But we know Mr. Penny best as a judge of the Commercial List. He was a heavy lifter with a sharp legal mind. He handled complex cases and tackled tough (and often novel) issues head on. His contributions to the jurisprudence reflect his rigorous analytical skills and leave an enduring legacy in the areas of commercial and insolvency law.

I speak for all of us on the Commercial List when I say how much we enjoyed sitting on the Commercial List with Mr. Penny. It is demanding work and we all benefitted from his generosity, intelligence, and collegiality. Personally, I feel privileged to have acted as Co-Team Lead of the Commercial List with Mr. Penny.

The bench and bar owe a debt of gratitude to Mr. Penny for his long-standing public service on the Superior Court of Justice. We will miss him but wish Mr. Penny and his family only the best in the years ahead.

Justice Barbara A. Conway

Current Time-Outs

| APPEARANCE | TIME OUT |
|--------------------------------|-----------|
| Chambers Appointment | NEXT WEEK |
| Short Motion | 2 WEEKS |
| Long Motion | 4 WEEKS |
| Trial | 51 WEEKS |
| Urgent Trial (10 days or less) | SAME WEEK |

CLUC Education & Social Day

This year's CLUC Education & Social Day took on an exciting new format. The event took place at the Art Gallery of Ontario (AGO), on May 28, 2025. Guests enjoyed an evening at the AGO, following the scheduled programming.

The programming included key issues in commercial litigation, the potential impacts of U.S. tariffs in Canada, and a retrospective on the successful restructuring of Tacora Resources Inc. Many thanks to our panelists from the bench and bar. We look forward to seeing everyone again next year.



The 2025 Justice Glenn Hainey Memorial Award

The award in honour of the late Justice Hainey was presented to: **Matilda Lici** of Aird & Berlis LLP.

The award is presented to a lawyer in their first five years of practice who embodies the characteristics and values that Justice Hainey fostered as a judge and lawyer. Matilda demonstrates this by her problem solving skills and applying business strategy to each case. She is 2019 graduate of Queen's University's Faculty of Law. Matilda is an insolvency associate in Aird and Berlis' Financial Services and Litigation Groups. At the awards ceremony, Matilda gave special mention to her parents, who have supported her along the way! She also expressed her gratitude to colleagues and mentors at Aird and Berlis, including Ian Aversa, Sanj Mitra, Miranda Spence, Kyle Plunkett, Steve Graff, and Jeremy Nemers, just to name a few.

A very warm congratulations to Matilda on her contributions to the profession.



Digital Transformation Project + Practice Direction Updates

- Phase 1 of the Ontario Courts Digital Transformation (“**CDT**”) initiative launched for the Toronto region on October 14, 2025, with two significant changes for the profession:
 1. The new electronic filing platform, the Ontario Courts Public Portal (“**OCP**P”) went live, replacing the Justice Services Online (“**J**SO”) portal.
 2. The new Toronto Practice Direction took effect, with updates reflecting the new filing portal.
 - 3.
- All electronic Toronto court filings for Civil and Family matters, including Commercial List, Bankruptcy, Contested Estates, Small Claims Court, and Divisional Court, must now be submitted through OCPP.
 - All confirmation and scheduling forms must be submitted through OCPP.
 - Urgent hearing request forms must be submitted through OCPP and flagged as time sensitive, and parties must send an email to the appropriate trial coordination office alerting staff of the request. This option should only be selected when submitting documents for a hearing that is three or fewer business days away.
- **Case Center Integration:** Parties and their representatives no longer need to upload materials which have been filed through OCPP to Case Center. Under the new system, electronic documents accepted for filing will be uploaded to Case Center by court staff for use at hearings. Note:
 - Parties and their representatives should still review the hearing bundle in Case Center 24 hours before the hearing to ensure completeness, particularly for materials uploaded on an urgent basis.
 - The Court appreciates all counsel, particularly Court officers, assisting self-represented litigants with the transition to the new system.
 - Some documents will still be uploaded to Case Center by the parties, including urgent materials (if not processed by Court staff 24 hours in advance of a hearing), compendiums and materials parties propose to tender as exhibits.
- **Public Access:** Members of the public can view a list of documents filed in a case (unless sealed), upcoming hearings, and the names of the parties and representatives. The documents themselves are not available through the portal at this time.
- **Party and Representative Access:** Parties and representatives who have created accounts and registered will see a list of upcoming hearings, including hearing location details, and access to all documents filed for their case.
- **User Guide and Resources:** The OCPP user guide is available at this link. Step-by-step guides and video tutorials covering registration, filing, requesting case access, setting up organization administrator access, and more, are available on the OCPP homepage and videos channel.
 - **Feedback:** The OCPP transition will include a learning curve for Court staff and counsel. CLUC encourages counsel to take advantage of the available tutorials and to provide feedback.

Users' Committee Members

Commercial List Judges

- Co-Team Leads of the List:
Justice Kimmel and Justice Osborne
- Chief Justice Morawetz
- Justice Conway
- Justice Myers
- Justice Cavanagh
- Justice Steele
- Justice Black
- Justice Dietrich

Associate Justices and Registrars in Bankruptcy

- Associate Justice Ilchenko
- Associate Justice Rappos

Committee Members

- Arif Dhanani, TDB Advisory Limited
- Andrew Gray, Torys LLP
- Brendan Bissell, Reconstruct LLP
- Brian Empey, Goodmans LLP
- Chantelle Cseh, Davies Ward Phillips & Vineberg LLP
- Caitlin Fell, Reconstruct LLP
- Clifton Prophet, Gowling WLG (Canada) LLP
- Delna Contractor, KPMG Canada
- Derek J. Bell, DLA Piper LLP
- Eric Block, Ross Nasser LLP
- Emily Y. Fan, Mintz LLP
- George Benchetrit, Chaitons LLP
- Sharon Hamilton, Ernst & Young LLP
- Monique Jilesen, Lenczner Slaght LLP
- Maria Konyukokhova, Stikeman Elliott LLP
- Shayne Kukulowicz, Cassels Brock & Blackwell LLP
- Jeff Larry, Paliare Roland Rosenberg Rothstein LLP
- Shaun Laubman, Henein Hutchison Robitaille LLP
- Ken Pearl, Fuller Landau LLP
- Monica Simion, Manager of Court Operations, Ontario Ministry of the Attorney General
- Miranda Spence, Aird & Berlis LLP
- Jennifer Stam, Norton Rose Fulbright Canada LLP