

Dr. R.L. Hayley
Adjunct Professor

LAW 343 A01 – CLASS ACTIONS AND MASS LITIGATION

Course Description

This course will provide an overview and analysis of mass litigation, whether brought by way of various representative actions available under the Rules of Court and certain statutes; repetitive individual tort actions as in the asbestos and residential schools litigation; test cases; and statutory class proceedings, available in all provinces except Prince Edward Island.

Consideration will be given to policy reasons for the development and expansion of mass litigation in British Columbia and other jurisdictions as well as certain procedural and substantive law developments that have contributed to the growth of this kind of litigation. The course will examine the apparent deficiencies in the law leading up to the enactment of class action legislation and will highlight the key provisions of that statutory framework and the case law that has interpreted it.

This type of litigation is extremely important from the perspective of both social and legal analysis. Moreover, it involves many diverse practice areas, including securities, banking law, aboriginal law, torts (including sexual assault), wrongful dismissal, shareholders actions, products liability and consumer claims generally, and constitutional law. Increasingly, practitioners – both barristers and solicitors – are being asked to advise their clients (whether potential plaintiffs or defendants) on the subtleties of class actions and other forms of mass litigation. This course will give students a point of entry into what is a complex, challenging and rewarding field that continues to expand rapidly. Given the cross-border implications of mass litigation, constitutional and conflicts of law issues will also be given some brief (but not over-technical) scrutiny.

Instructor

Rod Hayley is a partner at Lawson Lundell LLP in Vancouver, where he practises in the area of complex civil litigation, securities litigation, and class actions. He is a member of the bars of

British Columbia and Saskatchewan, and has also had cases in Alberta, Ontario, Quebec, and various American states. Rod has acted successfully for both plaintiffs and defendants in major provincial and national class actions. Rod is currently acting for the Government of Canada in multi-billion dollar tobacco litigation (including class actions) in British Columbia, Newfoundland, and New Brunswick. Rod is a member of the CBA National Task Force on multijurisdictional class actions. He has also been the Chair of the Uniform Law Conference of Canada's National Class Actions Project and was a member of the committee recently responsible for the setting up of a National Class Actions database, sponsored by the Canadian Bar Association. He has twice been Chair of the CBA's National Civil Litigation Section and has also been Chair of Vancouver's Civil Litigation Section.

Rod has published and delivered over 45 papers and has chaired many conferences in several provinces on a variety of legal issues, including class actions. Rod is also a member of the Editorial Board of the Class Action Defence Quarterly.

A graduate of the University of Victoria (B.A., Hon.), Rod obtained his LL.B. degree from Queen's University. He also has a Ph.D. from the University of London, where he studied as a Commonwealth Scholar. Rod has taught at the University of Victoria both full-time and also part-time. Besides Class Actions and Mass Litigation, a course he designed, Rod has taught at UVic courses in Civil Procedure, Business Associations, Advanced Legal Research, and Engineering Law. Rod has also been an Adjunct Professor at UBC's Faculty of Law, where he has taught courses in Construction Law and Mass Torts and Class Actions. In addition, Rod has lectured on legal topics in UBC's Faculty of Engineering. As an English professor, Rod has taught at the University of Alberta, the University of Western Ontario, Dalhousie University and the University of Ottawa, where he was Chair of the Honour's English programme.

Course Outline

The following outline of the topics for each class may have to be altered somewhat as the course proceeds, to allow for guest speakers and seminar presentations. One other class topic will be added shortly:

1. American Class Actions – Testing the Limits
2. Overview of Canadian Class Actions

3. The Representative Action
4. The Trilogy and more recent SCC decisions
5. The National Class
6. Environmental Class Actions
7. Tobacco and Asbestos - Toxic Torts
8. Historical Grievances
9. Securities Class Actions
10. Fees and Costs
11. Class Action -- Step By Step - summary class