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| Law 435C.001 | Personal Injury Advocacy | 2022 Term 2 |
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| Professors:  MARC KAZIMIRSKI and SANDRA KOVACS | Tel: (604) 681-9344  Email: mak@kazlaw.ca  Email: sk@kazlaw.ca  Office: 1900-570 Granville Street, Vancouver BC | Mondays 5:00 – 8:00 pm  UBC Faculty of Law  Room 121 |
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**WEEK TEN: Monday, March 21, 2022  
Occupiers’ Liability / Commercial Host Case Study: *Adams v. Heringa*    
Medical Malpractice case study: *Crawford v. Osuteye***

1. **TEACHING OBJECTIVES & OVERVIEW**

The goal of this week’s class is to learn how to litigate an occupiers’ liability / commercial host claim and a medical malpractice claim using specific case studies as examples.

**Readings:**

*Adams v. Heringa et al*

* [Occupiers Liability Act (gov.bc.ca)](https://www.bclaws.gov.bc.ca/civix/document/id/consol2/consol2/96337_01)
* Pleadings
  + Amended NOCC
  + RTCC
  + Third Party Notice
  + Responses to Third Party Notice
* [Notice to Mediate (General) Regulation (gov.bc.ca)](https://www.bclaws.gov.bc.ca/civix/document/id/loo94/loo94/4_2001)
* Plaintiff’s mediation brief (redacted for implied undertaking of confidentiality owed to adverse parties)

*Crawford v. Nazif*

* Further Amended Notice of Civil Claim
* Oral Reasons of August 9, 2019, Crossin, J., in Chambers re Mediation Default
* Will Says
* [*“Jury Openings: Persuading Without Advocating,” by Mike Slater, Q.C.*](https://docs.wixstatic.com/ugd/682071_b38eca7a172e4c5783cf6f7986086103.pdf)
* Plaintiff’s Opening
* Condensed Trial Transcripts, Days 1-5, September 3-9, 2019
* Notice of Demonstrative Evidence
* *Crawford v. Nazif,* [2019 BCSC 2337](https://www.canlii.org/en/bc/bcsc/doc/2019/2019bcsc2337/2019bcsc2337.pdf)
* *Crawford v. Osuteye,* [2019 BCSC 2336](https://www.canlii.org/en/bc/bcsc/doc/2019/2019bcsc2336/2019bcsc2336.html?autocompleteStr=crawford%20v.%20nazi&autocompletePos=1)
* Expert report of Dr. Ian Gillespie, January 23, 2019
* Expert report of Dr. George Pawliuk, June 19, 2019

1. **OCCUPIERS LIABILITY CASE STUDY: *ADAMS v. HERINGA et al.***

* Review of the [Occupiers Liability Act (gov.bc.ca)](https://www.bclaws.gov.bc.ca/civix/document/id/consol2/consol2/96337_01)
* Review of the Pleadings
  + Amended NOCC
  + RTCC
  + Third Party Notice
  + Responses to Third Party Notice
* [Notice to Mediate (General) Regulation (gov.bc.ca)](https://www.bclaws.gov.bc.ca/civix/document/id/loo94/loo94/4_2001)
* Review of the plaintiff’s mediation brief (redacted for implied undertaking of confidentiality owed to adverse parties)

1. **MEDICAL MALPRACTICE CASE STUDY: *CRAWFORD v. NAZIF***

Pleadings

* The importance of pleadings: Further Amended Notice of Civil Claim
* Theory of the Case

Meet the parties

* Review of photographs and the facts

Duty of Care and Standard of Care

* Discussion
  + Did Dr. Nazif owe Donna Crawford a duty of care?
  + Did Dr. Nazif breach the requisite standard of care in decertifying Mr. Osuteye?

Mediation

* Mediation Default: Oral Reasons of August 9, 2019, Crossin, J., in Chambers

Opening

* [*“Jury Openings: Persuading Without Advocating,” by Mike Slater, Q.C.*](https://docs.wixstatic.com/ugd/682071_b38eca7a172e4c5783cf6f7986086103.pdf) 
  + The *David Ball* approach
  + Review Plaintiff’s Opening

Lay Witness Evidence

* Will Says
* Order of witnesses to fit the theory of the case
* Condensed Trial Transcripts, Days 1-5, September 3-9, 2019

Real Evidence

* Notice of Demonstrative Evidence
  + *Crawford v. Nazif,* [2019 BCSC 2337](https://www.canlii.org/en/bc/bcsc/doc/2019/2019bcsc2337/2019bcsc2337.pdf)
  + Review of the visual and audio evidence

Expert Evidence

* *Crawford v. Osuteye,* [2019 BCSC 2336](https://www.canlii.org/en/bc/bcsc/doc/2019/2019bcsc2336/2019bcsc2336.html?autocompleteStr=crawford%20v.%20nazi&autocompletePos=1)
* Expert report of Dr. Ian Gillespie, January 23, 2019
* Expert report of Dr. George Pawliuk, June 19, 2019

Resolution: Day 13 of 19 days

* Advising the Court
* Discharging (and thanking) the jury