



The Foundation of Administrative Justice presents
The 2011 Conference - New Horizons: Legal issues for Tribunals.

April 12 (evening) & 13 (day), 2011

U of A Conference Centre, Edmonton

Check our website for details!!

www.foaj.ca

Tribunals continually seek to keep current on legal issues, both for their work today and to anticipate processes and costs for the future. This conference brings together a wide variety of leading tribunal members, counsel and advocates exploring legal issues facing tribunals today and in the future.

April 12, 2011 Opening Plenary – Assessing Credibility of Witnesses

“Who’s Telling the Truth?”

Leanne Chahley, Blair Chahley

Philip Ponting, Q.C., McLennan Ross LLP

James T. Casey, Q.C., Field Law

Assessing credibility is a fundamental part of an adjudicator’s work, often determining the outcome of a case. However, this task cannot be reduced to an exact science and the many subjective factors that go into weighing credibility – including demeanour, consistency in testimony, appearance of bias, and character – mean that triers of fact can come to very different conclusions about witness credibility.

At same time, there are strategies for bringing rigour to the process of credibility assessment, with a view to minimizing reliance on stereotypes. In this novel session, a video will be shown of simulated testimony in a robbery case, following which the panel will be asked to assess the witnesses’ credibility. The session will conclude with a discussion of problematic areas in eyewitness evidence, as well as various techniques and tools available to avoid the pitfalls in witness credibility assessment.

April 13, 2011 Concurrent Session Topics – (each offered twice)

1 How Do Tribunals & Clients Make The Perfect Match?

Brian Curial, Miller Thomson LLP

Lyle Kanee, Alberta Labour Relations Board

The challenge for clients is in presenting the information that they need to prove their case and the tribunal needs to make the decision. How does the presenter figure out the magic formula? What can the tribunal do to assist clients to put their best case forward?

2 Single Adjudicators: Who Do You Talk To?

Anne Wallace, Anne Wallace Legal Professional Corporation

Jim McCartney, McCartneyADR Inc.

With more tribunals using single adjudicators to manage cost and case loads, what changes for the single adjudicator? Who can you consult or bounce things off? What are the limits of appropriate discussion about a case? What tips can be passed to the new single adjudicator?

3 Content of a Decision: What do Reasons Include?

Julie Gagnon, Reynolds Mirth Richards & Farmer LLP

Gilbert Van Nes, Environmental Appeals Board

Have the recent decisions from the courts made a writer's task easier? Where do reasons and a transcript naturally depart? Does the writer have to include more when there is no transcript? Is it possible to develop a checklist for the decision writer?

4 Bias - Is the Circle Getting Smaller?

Juliana Saxberg, Saskatchewan Government and General Employees' Union
Sandy Hermiston, Appeals Commission for Alberta Workers' Compensation

Has the standard changed? What do panel members do when the decision makers are part of a small community? Should the challenged panel member rule on his/her own bias? What tips can tribunal members use to minimize challenges of bias?

5 Navigating a Complicated Tribunal Process

David Merner, Dispute Resolution Office at British Columbia's Ministry of Attorney General
Ken Bateman, National Energy Board

Some tribunal processes are becoming so complicated that the court process begins to look simple and straightforward. What steps are tribunals taking to help parties navigate the complicated processes? What alternate methods or other processes work to return tribunals to their roots as accessible, fast, straightforward and cost effective?

6 Privacy & Confidentiality in Tribunal Proceedings

Gary Perkins, Energy Resources Conservation Board
Ian Mackenzie, Public Service Labour Relations Board

Many tribunals follow the open hearing concept similar to the courts. At the same time, participants have become more sensitized to protecting personal information. Where does the balance lie between open or transparent tribunal proceedings and the protection of personal or confidential information?

April 13, 2011 Closing Plenary

A Review of the Leading Cases from the Courts

Dean Philip Bryden, Faculty of Law, University of Alberta



Who should attend:

If you are on a tribunal, an advisor to a tribunal or an advocate before a tribunal you need to attend this conference.

Pre and Post Conference Training:

FAJ offers pre and post conference training courses to enable conference attendees to develop or refresh skills and knowledge.
Interpreting Legislation - April 11 & 12, 2011

The Single Adjudicator's Clinic - April 14, 2011

New Course

Get credits for your time:

- FAJ training courses qualify for credit in the Certificate of Administrative Justice program.
- The FAJ conference and training courses qualify for Alberta Law Society Continuing Professional Development Credits.

Registration forms available on line at www.foaj.ca/conferences/2011/

NEW THIS YEAR - early bird registration by March 1 and group discounts for 5+ persons.

Accommodation available at the Lister Conference Centre or in nearby hotels.
Details on line at www.foaj.ca/conferences/2011/



Anne M. Wallace, Q.C.

Anne M. Wallace, Q.C., LL.B., Chartered Arbitrator and Chartered Mediator is a lawyer who, after many years of law practice, now devotes her full time to work as a dispute resolution neutral as a solo practitioner with Anne Wallace Legal Professional Corporation in Saskatoon. Anne's law practice with Wallace Meschishnick Clackson Zawada included administrative law, industrial relations, employment law, human rights, and civil litigation, including commercial litigation cases. She is now a mediator, adjudicator and arbitrator. Her work includes labour and employment, Indian residential schools adjudication, personal injury, domain name disputes, and commercial among others. Anne also provides skills based training in conflict resolution and prevention. Anne has taught decision writing and conduct of a hearing courses in the past including those sponsored by the Canadian Institute for the Administration of Justice. Anne holds an LL.B. with Great Distinction (University of Saskatchewan) and was the gold medallist in her law class. Anne was appointed Queen's Counsel in 1999. She is a Chartered Arbitrator and Chartered Mediator. In 2003, she was awarded the Queen's Golden Jubilee Medal for her contribution to the legal community, the development of the law and the administration of justice in Canada. In 2004, *Saskatchewan Business Magazine* named her one of Saskatchewan's *Women of Influence*. In February 2006, she was awarded the Canadian Bar Association's National Douglas Miller Award for outstanding dedication and team spirit.



Brenda Robinson

Brenda is a speaker, trainer, writer and consultant with a passion for working with people. She has been addressing groups for over twenty years on topics related to communications, humour, laughter, positive working skills and wellness in general. It is Brenda's belief that we are on a life long learning journey and that it should be an enjoyable, exciting and interesting travel time.

Brenda grew up close to Minnedosa, Manitoba and continues to stay connected to her family there. She now lives in Sherwood Park, Alberta where she and her husband, Len have their training and development business. Brenda and Len have five children 3 boys and 2 girls and 4 grandchildren.

She enjoys travel, gardening, reading, movies and long walks. The family is only complete when you count the two dogs one sheltie and one big English sheep dog and two stray cats who have taken up residence.

Brenda received her Bachelor of Arts from Brandon University in Brandon, Manitoba (Major in English) and her Masters of Education from Simon Fraser University in Burnaby, B.C. in 1998.

Join Brenda to listen, laugh and learn about other people, about yourself and about other stuff we may need and want to know.





Brian J. Curial

Partner, Edmonton
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Year of Call

Alberta Bar, 1987

Industry/Specialty Group

Business Law
Health
Regulatory

Key Practice Expertise

Acquisitions and Commercial
Transactions
Administrative Law
Corporate Commercial
Corporate Governance
Privacy and Information
Protection

Areas of Focus

Professional Conduct Hearings

PROFILE

Brian Curial is a corporate commercial Lawyer, and Partner in the Edmonton office of Miller Thomson. His commercial and administrative law practice focuses on the health industry and representing health professionals and regulatory colleges, as well as dealing with government departments and agencies in regard to health law issues. His practice has an emphasis on professional discipline complaints and administrative law, having appeared before numerous tribunals and discipline committees. He also regularly advises his clients on a large variety of commercial and regulatory issues, corporate governance, financing, leasing, contracts, confidentiality and privacy issues.

Brian is a senior member of Miller Thomson's Health Industry Practice Group, one of the largest groups of health law advisors in Canada. He acts as general counsel to more than half a dozen professional colleges and associations and is actively involved with several professions under the *Health Professions Act*. Brian has assisted a number of health professions in obtaining free-standing legislation during his career, as well as pursuing a number of initiatives for professional associations under the *Professional and Occupational Associations Registration Act*.

Brian has published in trade journals and regularly presents articles on professions and occupations law. In addition, Brian is a guest lecturer in the area of professional responsibility at the University of Alberta Faculty of Health Sciences, Department of Rehabilitation Medicine.

EDUCATION

- LL.B., University of Alberta, 1986
- B.A. program, University of Alberta, 1983
- Applied Land Use Planning, University of Alberta, 1981
- Accounting and Financial Administration, Northern Alberta Institute of Technology, 1975

DIRECTORSHIPS

- Governing Council, Athabasca University
- Chair, Governance Committee, Athabasca University
- Director, Skeleton Lake Stewardship Association
- Past-Chair, BBB of Central and Northern Alberta
- Past Director, Canadian Council of BBB's

COMMUNITY INVOLVEMENT

- Past President, Whitemud Creek Homeowners Association
- Coach, Minor Hockey & Soccer Edmonton
- Committee Member, Derrick Golf & Winter Club

MEMBERSHIPS

- Member, Law Society of Alberta
- Member, the Canadian Bar Association, Health Law subsection and Administrative Law subsection
- Council on Licensure, Enforcement & Regulation

David Merner

David Merner completed degrees at Harvard University, the University of Alberta, Oxford University, and the University of Toronto prior to his call to the British Columbia bar in 1990 and the Ontario bar in 1991. David practised for 15 years at the Department of Justice and Privy Council Office in Ottawa in various fields including constitutional law, employment law, tax litigation, and dispute resolution. Currently, David is Executive Director of the Dispute Resolution Office at British Columbia's Ministry of Attorney General. He works with the administrative tribunals, the courts, government ministries and other agencies on the effective prevention and resolution of disputes. David also receives daily training in dispute resolution and natural justice principles from his wife and four daughters in Victoria.



Garry Perkins

Gary Perkins is a graduate of the University of Alberta Law School. He had a general practice of law for 13 years before joining the Alberta Energy and Utilities Board (EUB) as Board Counsel in 2001. Since then he has worked exclusively as in-house counsel for the EUB and its successor agencies: the Alberta Utilities Commission and his current employer the Energy Resources Conservation Board (ERCB). The ERCB is an independent, quasi-judicial agency of the Government of Alberta. It regulates the safe, responsible, and efficient development of Alberta's energy resources, including oil, natural gas, oil sands, coal, and pipeline projects. The ERCB is designated a public body that is subject to the *Freedom of Information and Protection of Privacy Act*. Mr. Perkins' responsibilities include acting as counsel to the Board during hearings and other proceedings, and providing advice on information access and privacy issues. He has represented the ERCB and its predecessor the EUB, in a number of access decision reviews and mediations conducted by the Office of the Information and Privacy Commissioner of Alberta. He has also represented those Boards in privacy complaints, inquiries and investigations conducted by the Commissioner's Office.



Gilbert Van Nes serves as the Environmental Appeals Board's General Counsel and Settlement Officer. Mr. Van Nes provides advice to the Board and coordinates the Board's alternative dispute resolution activities. Gilbert has been a lawyer with the Government of Alberta since 1992. His employment history includes that of an Environmental Prosecutor with the Special Prosecutions Branch of Alberta Justice. Mr. Van Nes' experience includes seven years with the Environmental Law Section of Alberta Justice serving his clients in the Departments of Environment, Infrastructure, and Agriculture, Food and Rural Development. While with the Environmental Law Section, Mr. Van Nes assisted in drafting legislation such as the *Environmental Protection and Enhancement Act* and the *Water Act*, developed enforcement programs, appeared before the Alberta Energy and Utilities Board, and joint Natural Resources Conservation Board/Canadian Environmental Assessment Act panels. Mr. Van Nes graduated with a Bachelor of Laws in April 1991 and was admitted to the Bar in July 1992. Mr. Van Nes also has a Bachelor of Science degree in Biology and a certificate in Conflict Management from the Alberta Arbitration and Mediation Society.



Ian R. Mackenzie was first appointed as a full-time member of the federal Public Service Staff Relations Board in 2002. He was appointed Vice-Chairperson of the Public Service Labour Relations Board in 2005. He served as the Acting Chairperson from September 2006 to January 1, 2007.

Mr. Mackenzie is a graduate of Carleton University, where he received a B.A. (Hons.) in Political Science and an M.A. in Sociology. He received his law degree from the University of Windsor and has been a member of the Ontario Bar since 1992. He worked in private practice with an Ottawa law firm from 1992 to 1993, where he practiced labour and employment law. He worked for federal public service bargaining agents from 1994 to 1997, and from 1998 to 2000. He was a legal counsel with the Department of Justice in 1997-1998 and 2000-2002, working in the areas of judicial compensation and administrative law.



Mr. Mackenzie was the English course director for the federal training program for newly-appointed tribunal members from 2005-2010. He has made numerous presentations at administrative law conferences and at decision-writing workshops. He has also taught employment law and public law at Carleton University and for the Ontario Bar Admission program.



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James T. Casey, Q.C.

Jim Casey is a partner at Field LLP working in the Firm's Edmonton office. His primary areas of practice are labour and employment law, professional regulation, and administrative law. In 2008 Jim became the Firm's Managing Partner. Prior to that he was the head of the Firm's Edmonton Labour and Employment Group and its Professional Regulatory Group. He has appeared before all levels of Court in Alberta, numerous administrative tribunals, and before the Supreme Court of Canada in a Charter case. Jim serves as a labour arbitrator and a part-time Chair of the Alberta Labour Relations Board. Jim acts as legal counsel for numerous professional organizations providing advice in all areas of professional regulation including legislation, discipline, scope of practice and government relations. He is a frequent speaker to professional, business and community groups and has co-chaired conferences on professional regulation in Toronto, Vancouver and Halifax. Jim is the author of numerous publications including two books "The Regulation of Professions in Canada" and "A Guide to the Health Professions Act." He is also the editor of the text "Remedies in Labour, Employment, and Human Rights Law." Jim taught Labour Law for many years in the Faculty of Law at the University of Alberta. Jim has been included in the "L'Expert" directory as a leading lawyer and in the publication "Best Lawyers in Canada".



A lawyer for 36 years, Jim practiced civil litigation involving commercial and tort law at all court levels.

He has mediated or arbitrated more than 400 disputes involving commercial, industrial and residential construction, architectural services, franchise agreements, fatalities, vehicle accidents, employment, corporate dissolution, debt, shareholder agreements, trusts, tenancy, disability, insurance, industrial land sales, government contracts, fires, pipelines, municipal subdivisions, petroleum and coal exploration & development rights and other matters.

He is a Chartered Mediator and Chartered Arbitrator, a past president of the Alberta Arbitration and Mediation Society, and was a Director of the ADR Institute of Canada for two years.

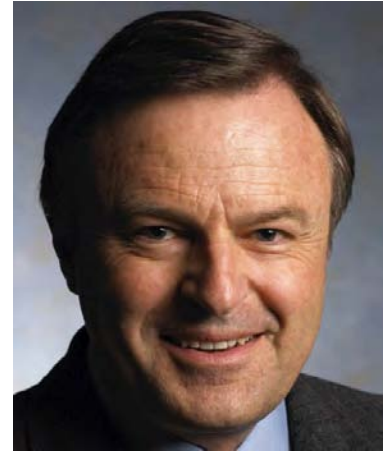
He is on the *arbitration* rosters of:

- the Canadian Transportation Agency,
 - the Better Business Bureau, and
 - the Alberta New Home Warranty Program,
- and is Chair of two NEB Pipeline Arbitration Committees.

He was recently appointed to serve on the Province of Alberta's Bid Protest Roster for procurement disputes arising under the Agreement on Internal Trade and to a third two-year term as a member of the Institute of Chartered Accountants of Alberta discipline and appeal tribunals and sanction agreement panels.

He also serves on the ADRIIC committees reviewing the requirements for Charter designations for mediators and for Charter and Qualified designations for arbitrators.

Mr McCartney has been counsel to, and a director of, CPIX Limited (Canadian Petroleum Insurance Exchange) since 2005 and became Chair of the Board of Directors in 2009.





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Juliana Saxberg

Juliana Saxberg is the Director of Legal Services for the Saskatchewan Government and General Employees' Union (SGEU), one of Saskatchewan's largest public sector unions. Juliana is co-counsel on an ongoing case brought by Saskatchewan unions and the Saskatchewan Federation of Labour challenging the Saskatchewan Government's 2008 mid-term firings of the then-sitting Saskatchewan Labour Relations Board, which was featured in *Lawyers Weekly* in March 2010. Prior to joining SGEU, Juliana practised union-side labour law with a Regina law firm. As a member and volunteer of the Canadian Association of Labour Lawyers and the Saskatchewan Canadian Bar Association, Labour Section's Representative to the CBA Saskatchewan Legislation Reform Committee, Juliana is very active in the Saskatchewan labour law scene. After receiving a Juris Doctor from the University of Toronto, Faculty of Law in 2001, Juliana was called to the bar in Ontario in 2002, and worked as a Legal Editor for Lancaster House from 2003 to 2007. A 1998 graduate of the University of Regina, Juliana returned to Saskatchewan in 2006.



Partner

Education

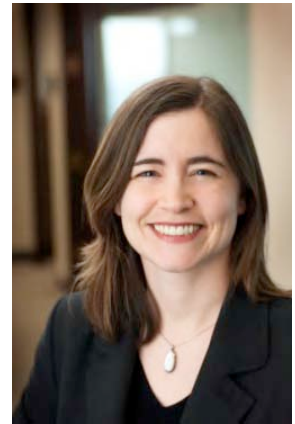
1994 – B. Comm., University of Alberta

1998 - LL.B., University of Alberta

1999 - Admitted to the Alberta Bar

PROFESSIONAL EXPERIENCE

Julie carries on a general practice of law with a focus on administrative law, civil litigation, and estate litigation. Her estate litigation practice includes challenges to wills, claims by dependents, and disputes among beneficiaries. In the area of administrative law, Julie acts for several professional associations and provides advice on regulatory issues and interpretation of legislation. Julie conducts disciplinary hearings for professional associations. She also acts as independent counsel to administrative tribunals. Julie has appeared before various tribunals, the Court of Queen’s Bench and the Court of Appeal.



PROFESSIONAL ASSOCIATIONS

Member of:

- Law Society of Alberta
- Canadian Bar Association-Administrative Law and Wills & Estates sections
- Edmonton Bar Association

COMMUNITY INVOLVEMENT

- Former Board Member - Concrete Theatre Society
- Member - Association canadienne- française de l’Alberta
- Member – Association des juristes d’expression française de l’Alberta
-

OTHER LANGUAGES

- French (fluent)

CONTACT INFORMATION

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E-Mail: jgagnon@rmrf.com

Board Member – National Energy Board of Canada

Kenneth Bateman is a national regulator, energy lawyer and arbitrator. Kenneth was appointed by the Privy Council to the National Energy Board of Canada (2006) and is responsible to regulate aspects of Canada's pipeline sector, energy development and trade. As an arbitrator and National Tribunal Member Kenneth has overseen numerous multiparty disputes involving national and multinational companies, environmental groups, Aboriginal peoples and landowners. He has also conducted independent reviews, sat jointly with an offshore Board and was recently appointed by the Canadian Government as a technical expert on a Joint Review Panel. Kenneth has led regulatory change by actively promoting ADR in all aspects of tribunal review.



Prior to the National Energy Board Kenneth was Vice-president and general counsel of a Canadian utility. He holds a law degree, a master's degree in international business management and BA in languages.

Kenneth is a Board Member advisor to a number of national publications; including, Canada's Energy Future, Emerging Technologies for Power Production, Energy Outlooks, and Energy Use in Canada - Past and Future.

kmbateman@shaw.ca

Leanne is managing partner at Blair Chahley, a union side labour law firm. Leanne has practiced labour law in Alberta and Ontario, in virtually all sectors, including construction, industrial, public, railway, air, municipal, education, health, and retail. She has appeared before the whole range of labour and human rights tribunals in both Alberta and Ontario, and also the courts at all levels, including the Supreme Court of Canada. Leanne is a frequent speaker on labour and human rights law and practice.

Lyle Kanee is a part-time Vice-Chair of both the Alberta and Ontario Labour Relations Boards and an arbitrator/mediator. Prior to beginning his career as a neutral in 2008, Lyle practised law at Sack Goldblatt Mitchell in Toronto and was the managing partner of the Edmonton law firm of Chivers Kanee Carpenter. Lyle has served as a sessional instructor in labour law and labour arbitration at the University of Alberta and Osgoode Hall law schools, and has presented papers on labour issues at numerous conferences and workshops. In 1999, Lyle was awarded the Suzanne Mah Award by the Alberta Human Rights Commission for his role in advancing the principles and ideals of human rights in the practice of law.

Professor Philip Bryden, B.A. (Dal.), B.A., B.C.L. (Oxon.), LL.M. (Harv.)
Wilbur Fee Bowker Professor and Dean of Law
University of Alberta

Prior to joining the University of Alberta as Dean of Law in 2009, Philip Bryden served as Dean of Law at the University of New Brunswick for five years. Before moving to the University of New Brunswick, he was a member of the Faculty of Law at the University of British Columbia from 1985 to 2004 and served as the Faculty's Associate Dean from 1993-96. In addition to his career as an academic, Dean Bryden worked as a law student and associate attorney with Donovan Leisure Newton and Irvine in New York City from 1979-81. He also served as a special assistant to Canadian Secretary of State Gerald Reagan (1981-82) and as a law clerk to Madam Justice Bertha Wilson of the Supreme Court of Canada (1983-84). From 1993-2004 he carried on a part-time practice of law as Associate Counsel to Heenan Blaikie. Dean Bryden received his legal education at Oxford University, where he studied as a Rhodes Scholar, earning a B.A. in Jurisprudence in 1978 and a B.C.L. in 1979, and at Harvard Law School, where he studied with the support of a Doctoral Fellowship from the S.S.H.R.C., earning an LL.M. in 1985.

Dean Bryden's research and teaching interests lie primarily in the field of administrative law, but he has also done work in the areas of constitutional law, human rights law and labour law. He is the author of numerous journal articles and book chapters on these and related topics and is a frequent contributor to continuing education programs for judges, members of administrative tribunals and lawyers. Dean Bryden has combined his academic interests with an active involvement in public service. He served as First Vice-President of the Canadian Institute for the Administration of Justice from 2003-04 and was Vice-President of the Council of Canadian Administrative Tribunals from 2000-01. Dean Bryden served as President of the Canadian Association of Law Teachers from 1994-95 and as President of the British Columbia Civil Liberties Association from 1991-93. From 2007-09 Dean Bryden served as Co-President of the Council of Canadian Law Deans.



A senior partner in McLennan Ross's Calgary office, Phil practises administrative law with the major focus of his work in the employment law field. Phil acts as management counsel in matters before the Labour Relations Board and arbitrators. He has extensive experience in negotiating collective agreements.

Phil graduated from the University of Alberta with a Bachelor of Commerce in 1968. He obtained his Bachelor of Laws from Queen's University in Kingston, Ontario in 1972 and was admitted to the Alberta Bar in 1973. He was appointed Queen's Counsel in 1985 by the Government of Canada.

Phil has been awarded Martindale-Hubbell's highest rating ("AV") for his skills and sense of ethics. He has been recognized in the publication *Best Lawyers in Canada* as a leading practitioner in the area of labour and employment law and is ranked as a leading practitioner in the areas of labour and transportation law by the *Canadian Legal Expert Directory*.

Phil was appointed Member of the Canada Council for the Arts in February 2009. He is former Governor and Chair of The Banff Centre and, in 2008, he was named a Fellow of the Banff Centre, a lifetime honour and the Banff Centre's highest recognition. In 1997 Phil was named a Paul Harris Fellow by Rotary International, in 1998 he was inducted into the City of Edmonton Cultural Hall of Fame, in 2003 he was awarded the Golden Jubilee Medal by the Government of Canada, and in 2005 he was awarded the Alberta Centennial Medal.

To contact Phil call 403.303.9104 or email pponting@mross.com



Sandy Hermiston is General Counsel for the Alberta Appeals Commission for Workers' Compensation, a position she has held since 1997. Since joining the Commission, Sandy has represented the Appeals Commission countless times in the Court of Queen's Bench as well as the Court of Appeal.

Since graduating with her law degree in 1984, Sandy has practiced law in a variety of settings. Early in her career Sandy had a general practice with a small firm in Calgary and then she moved to Edmonton where she acted as in-house counsel at Triple Five Corporation (West Edmonton Mall). Sandy's work in the administrative law field began in 1990 when she answered the call of the north and moved to Yellowknife, NWT to work as Registrar of Companies, Securities and Documents. In 1993 Sandy became Counsel for the Workers' Compensation Board of the Northwest Territories and held that position until her appointment to the Alberta Appeals Commission in 1997.

Never tiring of administrative boards, Sandy is active on a number of local and national sport organizations. Sandy is the current President of the Alberta Cerebral Palsy Sports Association and she represents Canada internationally in the world of disabled sport.