Index

ACTS, INTRODUCTION	ADJUDICATION AND PROMPT
Generally, 1:1	PAYMENT—Cont'd
A D HIDICATION AND DDOMDT	Minimum qualifications, 12:11
ADJUDICATION AND PROMPT PAYMENT	Preparing a claim
	generally, 12:12
Generally, 12:1	detailed submissions, 12:14
Adjudicator's determination	documents relied upon, 12:15
generally, 12:20 to 12:23	notice of adjudication, 12:13
compliance with determination, 12:23	Rebuttals, replies, sur-rebuttals and
costs, 12:22	sur-replies, 12:18
form and timing, 12:20	Responding to a claim, 12:17
interim binding nature of deter-	Serving the claim, 12:16
mination, 12:21	Timelines in Ontario, 12:7
Application to set aside	AFFECTING LIEN
adjudicator's determination,	PROCEDURES, TORONTO,
12:24 to 12:25	NOTICE TO PROFESSION
natural justice, 12:25	Generally, APP M
statutory grounds, 12:24	AMENDMENT OF PLEADINGS
Basic concepts	
generally, 12:2 to 12:19	See pleadings in a lien action
binding until and unless	AMOUNT CLAIMED AS OWING
overturned, 12:5	Generally, 2:23
enforcement of adjudicator's	APPEALS
determination, 12:6	Generally, 8:1 to 8:12
ODACC predetermined	Conduct of an appeal, 8:12
processes, 12:8	Divisional court jurisdiction, 8:4
proper invoice, 12:4	Final v. interlocutory orders, 8:3
statutory minimums, 12:2	Judgments, 8:2
statutory timelines, 12:9	Motions to oppose confirmation of a
targeted adjudication, 12:3	master's report
timelines in Ontario, 12:7	generally, 8:7
Challenging an Adjudicator's Deci-	appeal, 8:11
sion, 12:27	standard of review, 8:10
Choosing an adjudicator, 12:10	timeliness of motion, 8:8
Compliance with determination, 12:23	venue, 8:9
12120	Standard of review, 8:6
In-person hearings the exception, not the rule. 12:19	Timeliness of appeal. 8:5

ARBITRATION

Generally, **7:1 to 7:3**Arbitrability of lien claims, **7:2**Stay issues, **7:3**

ASSIGNMENTS OF LIENS AND TRUST CLAIMS

Generally, 5:11

BANKRUPTCY

Generally, 11:2

CASES OFTEN CITED IN CIVIL PROCEEDINGS

Generally, APP H

CERTIFICATE

Completion of subcontract, APP
A:1 to APP A:4
Substantial performance of contract,
APP A:1 to APP A:4

CHANGES FROM 2018

Construction Lien Act, APP A:1 to APP A:4 adjudication, 12:1

CLIENT IDENTIFICATION AND VERIFICATION

prompt payment, 12:1

Generally, 2:4

CLIENT MEETING

Generally, 2:3

COMPANIES' CREDITORS ARRANGEMENT ACT

Generally, 11:7

COMPLEX LIENS

Complex lien trial versus simple, **6:33, 6:34**

Document management issues, **6:35** Examination for discovery, **6:22** Outside of Toronto, **6:17** Preparing and conducting a lien discovery, **6:23**

CONDOMINIUMS

Generally, 2:33

CONSOLIDATION AND CARRIAGE

Carriage of consolidated lien action, 4:8

Connecting lien actions, **4:7**Consolidating lien actions, **4:6**

Consolidation and connecting orders, **4:5**

CONSTRUCTION ACT, SETTLING MEETING

Generally, **5:12 to 5:14**

Consequences of default attendance, **5:14**

Enforcing the outcome, **5:13** Process, **5:12**

CONSTRUCTION ACT TRUSTEE

Generally, **10:1 to 10:4** How to appoint, **10:3** Pros and cons, **10:4** When to appoint, **10:2**

COUNTERCLAIMS

Generally, 3:15

COVID-19 PANDEMIC

Notice to profession, affecting lien procedures, Toronto, **APP M**Vacating liens, interim procedure, **6:4**

CROSSCLAIMS

Generally, 3:16

CROSS-EXAMINATION

A simple lien trial, **6:33**Cross-examination, **2:34**, **6:43**Evidence at trial, **6:40**Examinations in chief, **6:42**

Notice of cross-examination claim for lien, APP A:1 to APP A:4

DEFAULT PROCEEDINGS

Default in defence, **3:23** Statutory defences, **3:13**

DEFENCES

Default in defence, 3:8 to 3:10

DEFENCES—Cont'd

Set-off, 3:14

Statutory, 3:13

Timeliness, lienablity and quantum, 3:12

Trust defence, 3:36

DEFENDING A LIEN ACTION

See pleadings in a lien action

DEMANDS FOR INFORMATION

Generally, 2:10

DISCOVERY

Generally, 6:19 to 6:29

Documentary discovery, 6:20

Document Management Consultants, 2:9

Electronic documents, 6:21

Examination, 6:22

Lawyer's conduct, 6:24

Preparing and conducting, 6:23

Refusals and undertakings, **6:25**

Transcript, reading in, 6:33 to 6:37

DOCUMENTARY DISCOVERY

Generally, 6:20

Electronic documents, 6:21

DOCUMENT MANAGEMENT CONSULTANTS

Generally, 2:9

ELECTRONIC DOCUMENTS

Generally, 6:21

ENFORCEMENT OF JUDGMENTS AND REPORTS

Generally, 9:1 to 9:5

Getting money or security out of

Court, **9:2**

judgment, 9:4

report by an Associate Judge, 9:3

Judicial sale, 9:5

E-REGISTRATION

Generally, 2:32

Cross-examination on the claim for lien, 2:34

E-REGISTRATION—Cont'd

"Giving" a copy of the executed lien, **2:27**

Registering a lien on a condominium project, 2:33

Sheltering statement, 2:35

Steps in e-registration, 2:36

Vacating certificates of action, 6:6

EVIDENCE

Demonstrative evidence and evidentiary aids, **6:48**

Expert evidence, 6:44

Hearsay, 1:1

Lay opinion evidence, 6:45

EXAGGERATED LIENS

Generally, 3:25

EXAMINATION FOR DISCOVERY

See discovery

EXAMINATION IN CHIEF

Generally, 6:42

EXECUTION AND SALE LAND

Generally, 9:1 to 9:5

EXPIRATION OF THE PERFECTED LIEN

Generally, 4:10

EXPIRY OF NON-PRESERVED LIENS

Generally, 2:37 to 2:40

Abandonment, 2:40

Completion, declaration of last supply and certification of completion of a subcontract, 2:39

Deadlines, 2:37

Substantial performance, 2:38

FORM OF LIEN

Generally, 2:17 to 2:28

Amount claimed as owing, 2:23

"Curative" section, 2:26

Description of the premises, 2:25

FORM OF LIEN—Cont'd

Execution of the lien form: Parts Bankruptcy, 11:2—Cont'd "A" and "B," 2:24 trust claims, 11:4 "Giving" a copy of the executed section 67(1)(a), 11:5 lien, 2:27 section 178(1)(d), 11:6 Naming the lien claimant, 2:17 Companies' Creditors Arrangement Naming the owner, 2:18 Act, 11:7 Naming the person to whom supply the lien regularization order, 11:9 has been made, 2:19 the stay, 11:8 Price, 2:22 Lien Remedy, 11:9 Registration and e-registration, 2:32 JOINDER, IMPROPER Short description of supply, 2:21 Generally, 3:7 Time within which supply was made, 2:20 JUDGES' BOOK OF Written notice of lien, 2:28 **AUTHORITIES—DIVISIONAL COURT** FORMS AND PRECEDENTS Generally, APP I Generally, APP A:1 to APP A:4 JUDGMENTS, ENFORCEMENT GENERAL LIEN Generally, 9:1 to 9:5 Generally, 2:29, 2:30 JURY NOTICES **HEARINGS FOR DIRECTIONS** Generally, 6:47 Generally, 6:15 to 6:18 "LAST MINUTE" LIEN HOLDBACK Generally, 2:6 Holdback distribution scenarios, APP B LEASEHOLD INTERESTS, LIENS **AGAINST** Holdback repayment bond, APP A:1 to APP A:4 Generally, 2:31 **IDENTIFYING AND VERIFYING** LIABILITY FOR THE CLIENT **EXAGGERATED LIENS** Generally, 2:4 Generally, 3:25 **LIEN ACTION IMPROPER LIEN** Generally, 3:1 to 3:39 See exaggerated liens Certificate of action, 3:24 **IMPROVEMENT** Discovery in lien actions, 6:19 to

6:29 Improper claims, **3:10**

Parties to a lien action

defendants, 3:4

plaintiffs, 3:3

generally, 3:3 to 3:7

improper joinder, 3:7

priority claims, 3:6

Motions in lien actions, 6:1 to 6:14

INSOLVENCY—Cont'd

Generally, 1:1, 2:2

Generally, 11:1 to 11:9

lighting the stay, 11:3

stay of proceedings, 11:3

Generally, 2:10

Bankruptcy, 11:2

INSOLVENCY

INFORMATION, DEMANDS FOR

LIEN ACTION—Cont'd MOTIONS IN LIEN ACTIONS Parties to a lien action—Cont'd -Cont'd the "owner," 3:5 Ex parte, 6:2 Pleadings Getting security out of court, 6:11 amendment of pleadings, 3:22 Guide, **6:2** claims, 3:8 to 3:10 Motion for security for costs, 6:14 improper claims, 3:10 Motion to discharge, 6:10 service, 3:9, 3:18 Motion under s. 45, 6:9 statement of claim, 3:8 Short motion, 6:2 counterclaims, 3:15 Summary judgment, 6:13 crossclaims, 3:16 Vacating liens, 6:3 to 6:8 defences, 3:11 to 3:14 MOTIONS TO OPPOSE default in defence, 3:23 CONFIRMATION OF A set-off, 3:14 MASTER'S REPORT statutory, 3:13 Generally, 8:7 timeliness, lienablity and Appeal, 8:11 quantum, **3:12** Standard of review, 8:10 expired lien, vacate registration, Timeliness of motion, 8:8 dismiss an action, 4:11 Venue. 8:9 particulars, 3:20 replies, **3:19** NOTICE TO PROFESSION request to admit, 3:21 Generally, APP M third-party claims, 3:17 ORDERS, FINAL V. Settling a lien action, 5:1 to 5:15 INTERLOCUTORY Summary judgment, 6:13 Generally, 8:3 Where to commence action, 3:2 PANDEMIC, COVID-19 LIEN PROCEDURES, TORONTO, Affecting lien procedures, Toronto, NOTICE TO PROFESSION notice to profession, APP M Generally, APP M Vacating liens, interim procedure, LIEN REQUIREMENTS 6:4 Generally, 2:2 **PARTICULAR** Lien action, 3:20 LIST OF FREQUENTLY CITED Scott Schedules, 6:28 **CIVIL AUTHORITIES—COURT OF** PAYMENT INTO COURT **APPEAL** Generally, 6:6 Generally, APP J PERFECTING A LIEN MEETING THE CLIENT Generally, 3:1 to 3:39 Generally, 2:3 Certificate of action, 3:24 Guide, 3:1 MOTIONS IN LIEN ACTIONS Liability for exaggerated liens, 3:25 Generally, 6:1 to 6:14 Parties to a lien action Application for declaration of substantial performance, 6:12 generally, **3:3 to 3:7**

PERFECTING A LIEN—Cont'd	PLEADINGS IN A TRUST
Parties to a lien action—Cont'd	ACTION
defendants, 3:4	Generally, 3:26 to 3:39
improper joinder, 3:7	Parties in a trust action
plaintiffs, 3:3	generally, 3:27 to 3:31
priority claims, 3:6	contractor's and subcontractor's
the "owner," 3:5	trust, 3:29
Pleadings in a lien action, 3:8 to	owner's trust, 3:28
3:23	section 13 liability, 3:31
Pleadings in a trust action, 3:26 to	vendor's trust, 3:30
3:39	Trust claim
Where to commence the action, 3:2	generally, 3:32 to 3:35
PLEADINGS IN A LIEN ACTION	accounting, 3:35
Amendment of pleadings, 3:22	breach of trust, 3:32
Claims	damages, 3:33
	tracing, 3:34
generally, 3:8	Trust defence
improper claims, 3:10	generally, 3:36 to 3:39
service, 3:9 , 3:18	payments discharging trust, 3:37 reduction of trust funds, 3:38
statement of claim, 3:8	set-off, 3:39
Counterclaims, 3:15	
Crossclaims, 3:16	POSTPONING LIENS
Defences	See vacating liens
generally, 3:11 to 3:14	PRACTICE BEFORE THE
default in defence, 3:23	COURT
set-off, 3:14	Generally, 6:1 to 6:57
statutory, 3:13	Discovery in lien actions
timeliness, lienablity and	generally, 6:19 to 6:29
quantum, 3:12	documentary discovery, 6:20
Expired lien, vacate registration,	electronic documents, 2:8, 6:21
dismiss an action, 4:11	examination, 6:22
Particulars, 3:20	lawyer's conduct, 6:24
Parties to a lien action	preparing and conducting, 6:23
generally, 3:3 to 3:7	refusals and undertakings, 6:25
defendants, 3:4	Scott Schedules, 6:26 to 6:29
improper joinder, 3:7	Motions in lien actions
plaintiffs, 3:3	generally, 6:1 to 6:14
priority claims, 3:6	application for declaration of
the "owner," 3:5	substantial performance, 6:12
Replies, 3:19	getting security out of court, 6:11
Request to admit, 3:21	guide, 6:2
Summary judgment, 6:13	motion for security for costs,
Third-party claims 3:17	6.14

PRACTICE BEFORE THE PRESERVING A LIEN—Cont'd COURT-Cont'd Client identification and verifica-Motions in lien actions—Cont'd tion, 2:4 motion to declare that a lien has Completing the form of lien expired for failure to generally, 2:17 to 2:28 preserve or perfect in time, amount claimed as owning, 2:23 6:9 "curative," 2:26 motion to discharge, 6:10 description of premises, 2:25 summary judgment, 6:13 execution of the lien form: parts vacating liens, 6:3 to 6:8 "a" and "b," 2:24 Notice to Profession and Parties-"giving" a copy of the executed Toronto Region, APP L lien, 2:27 Trial management: pre-trial confernaming the lien claimant, 2:17 ences, hearings for directions, naming the owner, 2:18 6:15 to 6:18 naming the person to whom suparranging and conducting, 6:16 ply has made, 2:19 consequences of failing to attend, price, 2:22 6:18 short description of supply, 2:21 guide, 6:15 time within which supply was Trial of the action made, 2:20 generally, 6:30 to 6:57 written notice, 2:28 conducting the trial, 6:38 to 6:51 Condominium, 2:34 guide, 6:30 Demand for information, 2:10 inquisitorial jurisdiction, 6:31 Document management consultants, preparing for trial, 6:33 to 6:37 self-represented parties, 6:32 Expiry of non-preserved liens, 2:37 the report, 6:52 to 6:57 to 2:40 deadlines, 2:37 PRACTICE DIRECTIONS substantial performance, 2:38 Civil motions practice direc-Guide, 2:1 tions—by region, APP G "Last minute" lien, 2:6 Court house practice directions, Liens against leasehold interests, APP C 2:31 Practice directions relating to Meeting with the client, 2:3 motions, APP F Practices to adopt, 2:7 Superior court of justice practice Registration and e-registration directions on construction generally, 2:32 to 2:36 liens, APP E cross-examination on the claim PRACTICE TO ADOPT for lien, 2:34 Generally, 2:7 registering a lien on a condominium project, 2:33 PREMISES, DESCRIPTION OF sheltering statement, 2:35 Generally, 2:25 steps in e-registration, 2:36 PRESERVING A LIEN Requirements of a lien, 2:2 Generally, **2:1 to 2:40** Retainer, 2:5

REPORTS

PRESERVING A LIEN-Cont'd Routine searches Generally, 6:52 to 6:57 generally, 2:11 Amending, setting aside or varying bankruptcy, 2:14 the report, 6:55 corporate, 2:13 Costs, 6:57 executions, 2:16 Enforcement, 9:1 to 9:5 licensing, 2:15 Judgment or report in rem and in personam, 6:53 title, 2:12 Pre- and post-judgment interest, Securing records, 2:8 6:56 PRE-TRIAL CONFERENCES, Reports and interim reports, 6:54 **HEARINGS FOR** RETAINER **DIRECTIONS** Generally, 6:15 to 6:18 Generally, 2:5 Arranging and conducting pre-trial SALVAGE COSTS conferences and hearings for Generally, 4:9 directions, 6:16, 6:17 outside Toronto, 6:17 SCOTT SCHEDULES Toronto, 6:16 Generally, **6:26 to 6:29** Consequences of failing to attend a Form of, 6:29 trial management pre-trial Guide, **6:27** conference, 6:18 Particulars of pleadings, 6:28 Guide, **6:15** SEARCHES, ROUTINE **PRICE** Generally, 2:11 Generally, 2:22 Bankruptcy, 2:14 PROMPT PAYMENT Corporate, 2:13 Generally, 12:1 Executions, 2:16 **QUANTUM MERUIT** Licensing, 2:15 Title, 2:12 Generally, 2:23 REFERENCES SECURING THE RECORDS Guide, 4:1 Generally, 2:8 Order of reference, 4:2 **SELF-REPRESENTATION** Setting aside an order of reference, Generally, 6:32 4:3 SETTING LIEN ACTION DOWN REGISTRATION AND FOR TRIAL **E-REGISTRATION** Generally, 4:1 to 4:12 Generally, 2:32 to 2:36 Consolidation, connection, carriage, Cross-examination on the claim, salvage costs 2:34 generally, 4:4 to 4:9 E-registration steps, **2:36** carriage of lien action, 4:8 Registering a lien on a condominium project, 2:33 connect lien actions, 4:7 "Sheltering statement," 2:35 consolidate lien actions, 4:6

SETTING LIEN ACTION DOWN FOR TRIAL—Cont'd

Consolidation, connection, carriage, salvage costs—Cont'd consolidation and connection orders generally, 4:5 salvage costs, 4:9

Guide, 4:1

Order of reference, 4:2

Section 37

generally, 4:10 to 4:12

expiration of the perfected lien, 4:10

motion to declare a lien expired, vacate registration, pay out security and dismiss an action, 4:1

salvaging a s. 37/s. 46 situation, 4:12

Setting aside an order of reference,

SETTLING A LIEN ACTION

Generally, 5:1 to 5:15

Costs on settlement, 5:5

Documenting the settlement

generally, **5:7 to 5:11** assignments of lien and trust

claims, **5:11**

releases: exceptions for underperformed work and unexpired maintenance and warranty obligations, 5:8

Revenue Canada third-party notices, 5:10

Workplace Safety and Insurance Board releases, 5:9

Funding dilemma: cash or title, 5:6 Guide, 5:1

Reaching terms, 5:2

Settlement meetings under the Construction Act

generally, 5:12 to 5:14

consequences of default attendance, 5:14

enforcing the outcome, 5:13

SETTLING A LIEN ACTION

-Cont'd

Settlement meetings under the Construction Act—Cont'd process, 5:12

The role of the payment bond surety, 5:3

Trust issues, 5:4

Vetting committees, 5:15

SHELTERING

Generally, 2:35

STAY ISSUES

Generally, 7:3, 11:3

SUBSTANTIAL PERFORMANCE

Application for declaration of substantial performance, 6:12 Substantial performance, 2:38

SUCCESSFUL HEARING BEFORE A CONSTRUCTION **COURT MASTER**

Generally, APP K

SUMMARY JUDGMENT

Generally, 6:13

SUPPLY DESCRIPTION

Generally, 2:21

TAX

Foreign currency and tax issues, 6:5 Revenue Canada third-party notices, 5:10

THIRD-PARTY CLAIMS

Generally, 3:17

TIMELINESS

Generally, 3:12

TIPS FOR A SUCCESSFUL **HEARING BEFORE A CONSTRUCTION COURT MASTER**

Generally, APP K

FITLE	TRIAL—Cont'd
Removing construction liens from	Report—Cont'd
title, 6:8	judgment or report in rem and in
ΓRIAL	personam, 6:53
Conducting the trial	pre- and post-judgment interest,
generally, 6:38 to 6:51	6:56
closing and argument, 6:33 to	reports and interim reports, 6:54 Self-represented parties, 6:32
6:37	Trial management pre-trial
conduct at trial, 6:41	generally, 6:15 to 6:18
cross-examinations, 6:43	arranging and conducting pre-
evidence at trial, 6:40	trial, 6:16, 6:17
examination in chief, 6:42	consequences of failing to attend,
expert evidence, 6:44	6:18
jury notices, 6:47	guide, 6:15
lay opinion evidence, 6:45	TRIAL BRIEF
opening statements, 6:39	Generally, 6:37
reading in discovery transcript,	
6:49	TRUST
taking a view, 6:50	Generally, 10:1 to 10:4
technical assistance, 6:46	Appointing a lien trustee, 10:2, 10:3 Guide, 10:1
Documentary discovery, 6:20	Pros and cons, 10:4
Electronic documents, 2:8, 6:21	,
Examination for discovery, 2:8,	TRUST ACTION
6:22	Generally, 3:26 to 3:39
Inquisitorial jurisdiction, 6:31	Parties in a trust action
Lawyer's conduct at discovery, 6:24	generally, 3:27 to 3:31
Preparing and conducting a lien	contractor's and subcontractor's trust, 3:29
discovery, 6:23	owner's trust, 3:28
Preparing for trial generally, 6:33 to 6:37	section 13 liability, 3:31
complex lien trial, 6:34	vendor's trust, 3:30
document management issues,	Summary judgment, 6:13
6:36	Trust claim
final trial management pre-trial,	generally, 3:32 to 3:35
6:35	accounting, 3:35
simple lien trial, 6:33	breach of trust, 3:32
trial brief, 6:37	damages, 3:33
Refusals and undertakings, 6:25	tracing, 3:34
Report	Trust defence
generally, 6:52 to 6:57	generally, 3:36 to 3:39
amending, setting aside or vary-	payments discharging trust, 3:37
ing the report, 6:55	reduction of trust funds, 3:38
costs, 6:57	set-off, 3:39

VACATING LIENS

Generally, **6:3 to 6:8**

Expiration of the perfected lien, 4:10

Foreign currency and tax issues, 6:5 Liability for exaggerated liens, 3:25

Motion to declare a lien expire, vacate registration, pay out security and dismiss an action, 4:11

Motion to declare that a lien has expired for failure to preserve or perfect in time, **6:9**

Motion to discharge, **6:10**

Payment into court, consequences, **6:6**

Postponement, 6:3

Process of removing construction liens from title, **6:8**

VACATING LIENS—Cont'd

Salvaging a s. 37/s. 46 situation, **4:12**

Security out of court, getting, **6:11** Vacating certificates of action, **6:7** Vacating versus discharging, **6:3**

VENUE

Generally, 8:9

Change of Venue, 3:2

VERIFYING AND IDENTIFYING THE CLIENT

Generally, 2:4

VETTING COMMITTEES

Generally, 5:15

VIEW, TAKING

Generally, 6:50

WRITTEN NOTICE OF LIEN

Generally, 2:28