

KENNETH GRAD

E-Mail: kgrad@yorku.ca

PROFILE

I am a Ph.D. Candidate at Osgoode Hall Law School, where I taught first-year criminal law as an adjunct professor in Fall 2023. I graduated as the gold medallist from Osgoode, following which I obtained an LLM from Harvard Law School and clerked for Justice Morris Fish of the Supreme Court of Canada. Prior to commencing my doctorate, I practiced criminal, regulatory, and civil litigation for nearly a decade, most recently with Henein Hutchison Robitaille LLP in Toronto. My Ph.D. research studies the efficacy of the criminal sanction and other regulatory measures as tools for combating hate and racist speech, focussing on the social and legal history surrounding the prosecutions of Holocaust deniers Ernst Zündel and James Keegstra. My academic writing has been published in the *Osgoode Hall Law Journal*, *Manitoba Law Journal*, *Criminal Law Quarterly*, *Canadian Jewish Studies*, *Canadian Journal of Law and Technology*, and the *Canadian Military Journal*. I have received numerous awards for my doctoral work, including the R. Roy McMurtry Fellowship and the Peter Oliver Prize from the Osgoode Society for Canadian Legal History, the Joseph-Armand Bombardier CGS Doctoral Scholarship from the Social Sciences and Humanities Research Council, and the Switzer-Cooperstock Student Prize in Western Canadian Jewish History from the Jewish Heritage Centre of Western Canada.

EDUCATION

Osgoode Hall Law School, York University

Toronto, Ontario

Doctor of Philosophy in Law (Ph.D.) (Candidate)

2019 – Present

- Doctoral Supervisor: Benjamin L. Berger (supervisor)
- Other Doctoral Committee Members: Philip Girard and Emily Kidd White
- Dissertation title: “Prosecuting hateful speech: An historical analysis of *Zundel*, *Keegstra*, and the criminal law’s ability to protect vulnerable communities”

Honours and Awards:

- R. Roy McMurtry Fellowship in Legal History (2023-24)
- Switzer-Cooperstock Student Prize in Western Canadian Jewish History (2023)
- Avrom Silver Graduate Student Research Fund Award (2022-23)
- SSHRC Joseph-Armand Bombardier CGS Doctoral Scholarship (2020-23)
- Peter Oliver Prize in Canadian Legal History (2022)
- R. Roy McMurtry Fellowship in Legal History, Honourable Mention (2021-22)
- J.S.D. Tory Research and Writing Award (2021)
- Ontario Graduate Scholarship (2019–20)
- Honourable Willard Z. Estey Teaching Fellowship in Law (2019-20)
- York University Graduate Scholarship (2019-20)

Harvard Law School **Cambridge, Massachusetts**
Master of Laws (LL.M.) 2011

- LL.M. Long Paper: “The Transformation of Canadian Law: 1937-1982”
- Supervisor: Morton J. Horwitz (Charles Warren Professor of American Legal History)

Osgoode Hall Law School, York University **Toronto, Ontario**
Juris Doctor (J.D.) 2010

Honours and Awards:

- The Gold Medal (highest academic standing)
- J.S.D. Tory Research and Writing Award
- George Graham Sinclair Memorial Prize
- Chancellor Van Koughnet Prize
- McCarthy Tétrault LLP Prize
- Harry R. Rose Criminal Law Prize
- Clifton H. Lane Memorial Prize
- Cassels Brock & Blackwell LLP Prize in Legal Process
- Fogler, Rubinoff LLP Prize in Property Law
- Carswell Prize

Queen’s University **Kingston, Ontario**
Master of Arts in History (M.A.) 2007

Honours and Awards:

- Queen’s University Graduate Award

University of Toronto **Toronto, Ontario**
Bachelor of Arts with High Distinction (B.A.) 2006

- Double Major in History and Economics

Honours and Awards:

- Dean’s Honour List (2005–06)

York University Teaching Commons **Toronto, Ontario**
Junior Record of Completion Certificate 2022

PROFESSIONAL EXPERIENCE

Henein Hutchison Robitaille LLP**Toronto, Ontario**

Associate

June 2016 – Aug 2019

- Practiced criminal, regulatory, and civil litigation with a focus on appellate advocacy
- Served as lead counsel or co-counsel with Marie Henein, Scott Hutchison, Danielle Robitaille, and others on numerous complex appellate and trial matters
- Appeared and argued at all levels of court in Ontario and several administrative tribunals
- Conducted approximately one thousand hours of legal aid and *pro bono* work
- Provided editorial work for *Martin's Annual Criminal Code* and *Martin's Related Criminal Statutes*

Paul, Weiss, Rifkind, Wharton & Garrison LLP**New York, New York**

Associate

Oct 2013 – May 2016

- Practiced civil litigation at one of the world's most highly regarded litigation firms
- Worked on a variety of complex files, including a large environmental trial, numerous securities litigation matters, and internal investigations
- Maintained an extensive *pro bono* practice, including work on behalf of The Bronx Defenders—a leading public defender organization—and the Cyrus R. Vance Center for International Justice

Supreme Court of Canada**Ottawa, Ontario**

Law Clerk to The Honourable Morris J. Fish

Sept 2012 – Aug 2013

- One of three judicial law clerks for Justice Fish in the 2012-13 term
- Assisted Justice Fish in all aspects of his work, particularly with cases and lectures focusing on criminal law
- Specific tasks included drafting bench memoranda prior to each hearing, engaging in post-hearing discussions, and assisting with drafting judicial opinions and speeches

Skadden, Arps, Slate, Meagher & Flom LLP**New York, New York**

Associate

Oct 2011 – Aug 2012

Summer Associate

May 2009 – Aug 2009

- Practiced civil litigation at one of the top ranked law firms in the United States
- Conducted legal research on wide variety of topics and assisted with trial strategy
- Sole associate on a *pro bono* matter, helping my client, a victim of spousal abuse, obtain U.S. citizenship

Huff Wilkes LLP**Tarrytown, New York**

Summer Associate

May 2008 – July 2008

- Worked as a summer associate for boutique law firm with specialty in tax law
- Conducted legal research on topics focusing on property tax and constitutional law issues

TEACHING EXPERIENCE

Osgoode Hall Law School, York University

Toronto, Ontario

Adjunct Professor

August 2023 – Present

Course Instructor for Criminal Law I

- Sole instructor for first-year criminal law course
- Drafted course outline and syllabus
- Tasks include creating and delivering all course lectures, meeting regularly with students, and grading all examinations
- Organized Special Plenary on Indigenous Perspectives on the Criminal Justice System for all four first-year criminal law sections at Osgoode

Graduate Teaching Assistant and Course Instructor

Aug 2019 – Apr 2020

Ethical Lawyering in a Global Community

- Professor: Allan C. Hutchinson
- Served as Graduate Teaching Assistant and Course Instructor for first-year course on legal ethics.
- Tasks included lecturing, assisting with course strategy and content, judging first-year moot competition, and grading essays and other assignments.

Osgoode Professional Development

Toronto, Ontario

Faculty Instructor

March 2018

11th Annual Intensive Course on Drafting and Reviewing Search Warrants

- Course designed primarily for criminal law practitioners, judges, law enforcement officers, and regulatory investigators
- Offers a practical program to obtain knowledge and skills to draft, review, and revise search warrants and to identify and develop winning strategies for defending or attacking them
- Delivered lecture on Media Searches

Faculty Instructor

March 2017

10th Annual Intensive Course on Drafting and Reviewing Search Warrants

- Course designed primarily for criminal law practitioners, judges, law enforcement officers, and regulatory investigators
- Offers a practical program to obtain knowledge and skills to draft, review, and revise search warrants and to identify and develop winning strategies for defending or attacking them
- Delivered lecture on Law Office Searches: Guidelines and Best Practices Tips

Queen's University

Kingston, Ontario

Graduate Teaching Assistant

Sept 2006 – Apr 2007

- Courses: Imperial Russia and Cultural History of Modern France
- Responsible for leading seminar discussions for groups of twenty-five students and for grading exams and other course assignments

LECTURES AND CONFERENCE PRESENTATIONS

Third Annual Law vs Antisemitism Conference

February 2024

- Conference held at Florida International University College of Law (Miami, Florida)
- Presentation title: “Trials and Tribulations: The Prosecutions of Ernst Zundel and James Keegstra, 1985”

Switzer-Cooperstock Student Prize Lecture

October 2023

- Lecture delivered in recognition of my receipt of the 2023 Switzer-Cooperstock Student Prize in Western Canadian Jewish History
- Lecture title: Civil Alternatives in the Fight Against Hate Speech: The Marcus Hyman Act
- Lecture recording available: [youtube.com/watch?v=Kl130s1F0Q0&t=193s](https://www.youtube.com/watch?v=Kl130s1F0Q0&t=193s)

Trinity College, University of Toronto

February 2022

- Guest lecturer for course on Ethics and the Law (TRN 172Y)
- Lecture title: “Hate Speech and the Law in Canada”

Koschitzky Centre for Jewish Studies, York University

January 2022

- Lecture delivered as part of Koschitzky Centre’s “Torah Tea” lecture series
- Lecture title: “Legal Remedies for Hate Speech: The Historical and Contemporary Significance of the Marcus Hyman Act”

Association for Canadian Jewish Studies

May 2021

ACJS Annual Conference

- Marcia Koven Award for Best Student Paper Presented, Honourable Mention
- Presentation title: “A Gesture of Criminal Law: Jews and the Criminalization of Hate Speech in Canada”

OTHER ACADEMIC EXPERIENCE

Osgoode Hall Law School, York University

Toronto, Ontario

Juris Doctor (JD) Admissions Committee Representative

Sept 2022 - Present

- Committee member of the Graduate Law Students Association (GLSA)
- Tasks include formulating policy for admissions; reviewing applications and making recommendations on admission to the Osgoode JD program and access to Osgoode’s Income-Contingent Loan Program (ICLP); interviewing JD and ICLP applicants; and attending monthly Admissions Committee meetings and meetings of the GLSA committee

Graduate Assistant in Pluralism and Public Law

Sept 2020 – Apr 2021

- Professor: Benjamin L. Berger
- Position involved administration and coordination of events run by the York Research Chair in Pluralism and Public Law and research activities associated with the Chair’s work

Research Assistant

Sept 2019 – Apr 2020

- Professor: Benjamin L. Berger
- Tasks included reviewing and editing *Criminal Law and Procedure: Cases and Materials*, 12th ed., and supervising editorial work conducted by group of J.D. student reviewers

PUBLICATIONS

Journal Articles

- “The More Things Change, the More They Stay the Same: Bail Pending Appeal After *R v Oland*” (2022) 45:4 *Manitoba Law Journal*, online: robsoncrim.com/files/ugd/bab59a560744a56e8c4c498ea036ca8b46b304.pdf. (peer-reviewed)
- “A Gesture of Criminal Law: Jews and the Criminalization of Hate Speech in Canada” (2022) 59:2 *Osgoode Hall Law Journal* 375-427, online: digitalcommons.osgoode.yorku.ca/ohlj/vol59/iss2/4/. (peer-reviewed)
- “Civil Law Alternatives in the Fight Against Hate Speech: The Case Study of the Marcus Hyman Act” (2022) 33 *Canadian Jewish Studies/Études juives canadiennes* 13-50, online: cjs.journals.yorku.ca/index.php/cjs/article/view/40263. (peer-reviewed)
- “Harmful Speech and the COVID-19 Penumbra” (2021) 19:1 *Canadian Journal of Law and Technology* 1-34 (with Amanda Turnbull), online: papers.ssrn.com/sol3/papers.cfm?abstract_id=3893945. (peer-reviewed)
- “Picked the Wrong Cars: A Comment on *R. v. Theriault*, *R. v. Khill*, and the Initial Aggressor” (2020) 68:4 *Criminal Law Quarterly* 386-409, online: papers.ssrn.com/sol3/papers.cfm?abstract_id=3779999.
- “Effective Leadership in Counter-Insurgency: The North-West Mounted Police in South Africa, 1899-1902” (2008) 9:2 *Canadian Military Journal* 61-72, online: journal.forces.gc.ca/vo9/no2/08-grad-eng.asp. (peer-reviewed)

Op-Eds

- “Mind the Age-Gap: Closing the Digital Divide in a Post-Pandemic World,” *Ottawa Citizen* (13 January 2021), online: perma.cc/H6ZY-YFBZ (with Amanda Turnbull).

Other Publications

- “The Marcus Hyman Act: A Link to Our Past – And Our Future?” *The Jewish Heritage Centre Connects*, Jewish Heritage Centre of Western Canada (24 June 2021).
- “Supreme Court Rejects *Whittaker* Rule for Tolling Section 16(b) Claims,” *Securities Litigation News and Developments*, American Bar Association (4 April 2012) (with Patrick Rideout).
- “Second Circuit Clarifies Extraterritorial Reach of U.S. Securities Laws,” *Securities Litigation News and Developments*, American Bar Association (8 March 2012) (with Patrick Rideout).

VOLUNTEER COMMUNITY ACTIVITIES

Black Law Students' Association of Canada**Toronto, Ontario**

2024 Julius Alexander Isaac Moot

February 2024

- Honouring the first Black person to sit on the Federal Court of Canada, the Julius Alexander Moot brings together teams from approximately 11-13 Canadian law schools to advance critical race approaches to better serve the diverse Canadian public
- Invited to serve as factum grader for 2024 edition of the moot

B'nai Brith Canada Senior Citizen Centre**Toronto, Ontario**

COVID-19 Emergency Response Food Drive

June 2020 – October 2022

- Volunteered approximately 1-2 hours per week packaging food donations delivered to needy and at-risk members of the Jewish community, including Holocaust survivors
- Provided food for about 130 families per week

Annual Hanukkah Food Drive

December 2020; November 2021

- Packaged food for distribution to needy families as part of B'nai Brith Canada's Annual Hannukah Food Drive

Bronx Defenders**New York, New York**Various *pro bono* legal matters

2015 – 2016

- Conducted *pro bono* legal work on behalf of Bronx Defenders, a public defender nonprofit organization dedicated to radically transforming how low-income people in the Bronx are represented in the criminal justice system
- Specific files included successful representation of client with a criminal record who had been unlawfully denied access to his children under his parole conditions

Cyrus R. Vance Center for International Justice**New York, New York**

Research assistance on constitutional law issues

2014

- Conducted *pro bono* legal work for Cyrus R. Vance Center, which provides legal representation to civil society organizations, as well as international human rights bodies around the world, in partnership with leading law firms
- Provided legal research and drafted memorandum on complex international constitutional law issues, including Canadian constitutional law

Legal Services NYC**New York, New York**

VAWA Self-Petition

2012

- Provided *pro bono* legal work on behalf of client who had separated from her husband due to physical and sexual abuse
- Assisted client in preparing self-petition for citizenship under the *Violence Against Women Act (VAWA)*
- *VAWA* provides a pathway to citizenship for immigrants who are or were married to abusers who are United States citizens
- With my assistance, client successfully obtained U.S. citizenship

ADVOCACY AND REPORTED DECISIONS

Court of Appeal for Ontario

R. v. Locknick, [2019 ONCA 625](#) June 2019

- Co-counsel with Karen Heath

R. v. Saleh, [2019 ONCA 819](#) April 2019

- Co-counsel with Marie Henein
- Successfully overturned client's first-degree murder conviction

Pong Marketing and Promotions Inc. v. Ontario Media Development Corporation, [2018 ONCA 555](#) December 2017

- Co-counsel with Scott Hutchison

R. v. Pindus, [2018 ONCA 55](#) November 2017

- Co-counsel with Matthew Gourlay

Ontario Superior Court of Justice, Divisional Court

Farkas v. The Law Society of Ontario, [2019 ONSC 2028](#) February 2019

- Co-counsel with Marie Henein

Pong Marketing and Promotions Inc. v. Ontario Media Development Corporation, [2017 ONSC 434](#) October 2016

- Co-counsel with Scott Hutchison

Ontario Court of Justice

R. v. Daymak, [2017 ONCJ 251](#) April 2017

- Co-counsel with Marie Henein

New York Supreme Court

All Children's Hospital, Inc. v. Citigroup Global Markets, Inc., 2016 WL 4479294, 2016 N.Y. Slip. Op. 31626(U) October 2015

- Co-counsel with Andrew Ehrlich and Elizabeth McCabe

Administrative Tribunals

W.M.S., MD v. L.C., [2019 CanLII 44341](#) February 2019

(Ont. Health Professions Appeal and Review Board)

- Co-counsel with Marie Henein

Law Society of Upper Canada v. Farkas, [2018 ONLSTA 2](#) February 2019

(Law Society Tribunal Appeal Division)

- Co-counsel with Marie Henein

Law Society of Upper Canada v. Farkas, [2017 ONLSTH 75](#) November 2016

(Law Society Tribunal Hearing Division)

- Co-counsel with Marie Henein

MEDIA

- John Longhurst, “Unique law makes it easier to bring hate speech claims,” *Canadian Affairs*, online: canadianaffairs.news/2023/10/11/unique-law-makes-it-easier-to-bring-hate-speech-claims/
- John Longhurst, “A valuable tool to combat hate,” *Winnipeg Free Press* (7 October 2023), online: winnipegfreepress.com/arts-and-life/life/faith/2023/10/07/a-valuable-tool-to-combat-hate
- John Longhurst, “An old Manitoba law created in response to a 1930s newspaper could open up ways to fight antisemitic speech in the 2020s,” *The Canadian Jewish News* (3 October 2023), online: thecjn.ca/news/an-old-manitoba-law-created-in-response-to-a-1930s-newspaper-could-open-up-ways-to-fight-antisemitic-speech-in-the-2020s/
- “PhD student Kenneth Grad celebrates new daughter, \$10,000 fellowship and other prestigious awards,” *Osgoode Hall Law School Newsroom* (19 June 2023), online: osgoode.yorku.ca/news/doctoral-student-celebrates-new-daughter-17000-fellowship-and-other-prestigious-awards/

MEMBERSHIPS HELD IN PROFESSIONAL AND LEARNED SOCIETIES

- | | |
|---|----------------|
| • Law Society of Ontario | 2015 – Present |
| • New York State Bar Association | 2012 – Present |
| • Osgoode Society for Canadian Legal History | 2017 – Present |
| • Criminal Lawyers’ Association (Ontario) | 2016 – Present |
| • Association for Canadian Jewish Studies | 2019 – Present |
| • Canadian Jewish Holocaust Survivors and Descendants | 2020 – Present |
| • The Advocates’ Society | 2016 – 2020 |