

## ABlawg: Year in Review, 2017

**By:** Ablawg Writers

As we take stock of the year that was, ABlawg is pleased to provide our highlights from 2017, consisting of some statistics and a roundup of our bloggers' contributions in substantive areas of law this past year.

### The Numbers

ABlawg has published 156 posts so far in 2017. The post that generated the most hits this year was Alice Woolley's [The Incarcerated Complainant: Submissions to the Minister of Justice](#), with 2539 views overall ([and see a second post on the same case here](#)). Close behind were Jennifer Koshan's post [Another Workplace Death Illustrates the Need for More Enhanced Protections for Farm Workers](#) with 2290 views, and Martin Olszynski's post [In the Growing Wave of Climate Litigation, Could the Automobile Industry be Next?](#) with 2183 views. Overall, six ABlawg posts had more than 2000 views in 2017 (see also Drew Yewchuk, [R v Cody: The Supreme Court Stands Their Ground on Unreasonable Delay](#), Jennifer Koshan, [Sexual Assault, Starting Points, and Court of Appeal Panel Composition: A Chilling Effect on Individualized Sentencing?](#) and Jonnette Watson Hamilton, [When are Late Payment of Rent Charges in Residential Tenancies Unenforceable?](#)).

Martin Olszynski's aforementioned [post](#) on climate litigation generated the most discussion, with 9 comments, followed by 2 posts with 7 comments each: Jonnette Watson Hamilton's [The Potential Impact of a Quebec Superior Court Challenge on Access to Justice in Alberta](#) and Jennifer Koshan's [Alberta Agrees to Amend Human Rights Legislation to Expand Prohibitions Against Age Discrimination](#).

Our most prolific blogger in 2017 – as in years past – was [Nigel Bankes](#), with 33 posts, followed by [Jonnette Watson Hamilton](#), with 23 posts this year.

ABlawg welcomed some new bloggers in 2017: our new colleagues [Lorian Hardcastle](#) (who will be blogging on health law issues) and [Howard Kislowicz](#) (who will be blogging on constitutional and administrative law issues). We also strengthened our relationship with the [Alberta Law Reform Institute](#) (ALRI) this year, and will routinely be including posts to inform our readers about ALRI's important law reform work (see e.g. Laura Buckingham's post [Property Division for Common-law Couples: The Problem, the Project, and the Proposals](#), and Genevieve Tremblay-McCaig's post [Property Division: Living Together Before Marriage](#); and stay tuned for a post in the coming days on ALRI's [Report for Discussion #32](#), Inter-Provincial Recognition of Substitute Decision-Making Documents). Interestingly, the date that ABlawg had the most traffic this year – November 29, 2017, with 2254 hits – was likely attributable to Tremblay-McCaig's post on November 27 and a comment on ALRI's recommendations by former student

Kyle Gardiner on November 28, [The Cost of Cohabitation Agreements: Considering Property Division Laws for Unmarried Cohabitants](#).

We are delighted to have a strong relationship with [CanLIIConnects](#) – over 90 ABlawg posts were cross-posted there in 2017. Given that we cross-post all of our comments on Canadian judicial and administrative decisions to Can LII Connects, this number reveals that 3/5 of ABlawg posts are concerned with such decisions, while 2/5 are focused on legislative and policy developments in Alberta, Canada and internationally.

ABlawg also published two e-books this year: in February, the [Digest of Alberta Energy Regulator Participatory and Procedural Decisions](#) by Nigel Bankes, Amy Matychuk, and David Rennie, and in December, [Landlords, Tenants and Domestic Violence](#), a compilation of posts by Jonnette Watson Hamilton, Jennifer Koshan and Elysa Darling largely triggered by the [report](#) of the [Centre for Public Legal Education](#) on the roles of landlords and property managers in domestic violence cases.

## Area Specific Posts in 2017

### *Aboriginal Law*

Our coverage of developments in Aboriginal law included posts on four Supreme Court decisions: *Clyde River (Hamlet) v Petroleum Geo-Services Inc.*, [2017 SCC 40 \(CanLII\)](#) and *Chippewas of the Thames First Nation v Enbridge Pipelines Inc.*, [2017 SCC 41 \(CanLII\)](#) (see Nigel Bankes' post [here](#)); *Ktunaxa Nation v British Columbia (Forests, Lands and Natural Resource Operations)*, [2017 SCC 54 \(CanLII\)](#) (see the posts of David Laidlaw and Howard Kislowicz and Senwung Luk [here and here](#)); and *First Nation of Nacho Nyak Dun v Yukon*, [2017 SCC 58 \(CanLII\)](#) (see Bankes' post [here](#)). We also provided posts on a number of lower court decisions including a [pipeline right of way case](#), a [case involving mineral rights](#), and a case involving the ongoing [uncertainty with the application of inter-jurisdictional immunity](#) to reserve lands. In this year marking Canada's 150<sup>th</sup> birthday, which coincides with the 140<sup>th</sup> anniversary of Treaty 7 and the 10<sup>th</sup> anniversary of the adoption of the *United Nations Declaration on the Rights of Indigenous Peoples*, ABlawg also published Kathleen Mahoney's post [The Rule of Law in Canada 150 Years After Confederation: Re-Imagining the Rule of Law and Recognizing Indigenous Peoples as Founders of Canada](#).

### *Criminal Law*

Our most active criminal law blogger, Lisa Silver – who also has her own blog, the fabulous [Ideablawg](#) – noted that while last year her theme was modernity, this year her posts focused on community in its many shapes and forms. See for example her post [The Creation of Community “Space” in Sentencing in R v Saretzky](#), where community is found in the legal space of the courtroom. Community can wear the guise of regulation or public welfare offences as discussed in her posts on the regulation of drones ([here](#)) and on sentencing for regulatory offences ([here](#)), and it can impact our approach to traditional legal principles as examined in her posts on *Barton* ([here and here](#)) and on [confidential informants](#). Michael Nesbitt also contributed posts on national securities law issues ([here and here](#)), and Erin Sheley posted comments on [Criminal](#)

[Negligence and the Reasonable Parent](#) and [Organized Crime, Wiretaps and Section 8 of the Charter](#). We also have a quarrel of law students writing posts on the interface of criminal and constitutional law, on issues including prisoners' rights (see [here](#), [here](#) and [here](#)) and unreasonable delay in criminal matters (see [here](#) and [here](#)).

### ***Constitutional and Human Rights Law***

In addition to the posts on Indigenous peoples and constitutional law referenced earlier, ABlawg published posts on a range of constitutional and human rights issues this year. The Supreme Court's decision in *Ernst v Alberta Energy Regulator*, [2017 SCC 1 \(CanLII\)](#) got us started in January (see [here](#), [here](#) and [here](#)). We also provided a series of posts on age discrimination (see [here](#) and [here](#)) and disability discrimination – including a post on a case we've been following for some time, *Stewart v Elk Valley Coal Corp.*, [2017 SCC 30 \(CanLII\)](#) (see [here](#)), as well as posts on an ongoing *Charter* challenge to Alberta's *Mental Health Act* (see [here](#) and [here](#)).

### ***The Electricity Sector***

ABlawg continued to follow developments in the electricity sector over the year. This included a series of posts by Nigel Bankes on the litigation and regulatory developments relating to the termination of power purchase arrangements (PPAs): see [here](#), [here](#) and [here](#). ABlawg also followed developments related to [Alberta's procurement of renewable energy](#) and [investments in energy efficiency](#) as well as [competition law matters](#) connected with the move to adopt a capacity market.

### ***Federal Energy, Fisheries and Environmental Legislation / Case Law***

ABlawg offered comprehensive coverage of the reviews of environmental and energy legislation initiated by the Trudeau administration back in 2016. Nigel Bankes covered the so-called [NEB Modernization panel report](#) and the [federal response](#) to that report while others covered the two other review streams. Arlene Kwasniak provided an [overview](#) of the April 2017 report of the Expert Panel on the Review of Federal Environmental Assessment Processes, [Building Common Ground: A New Vision for Impact Assessment in Canada](#), and Sharon Mascher provided an [overview](#) of the Government of Canada's [June 2017 discussion paper](#) on Environmental and Regulatory Reviews. ABlawg published several other posts on these reports: Kwasniak's post on [the federal response on the environmental assessment issues](#); Mascher's post on [triggers in environmental assessment legislation](#) and on [lessons learned from impact assessment in Australia](#); and Shaun Fluker and Drew Yewchuk's post on the expert panel's treatment of the [federal environmental assessment process in Canada's national parks](#). Building on his 2016 review of [the EA process](#), Martin Olszynski provided a post revisiting the [breadth of federal environmental jurisdiction](#), as well as with respect to *Fisheries Act* [reforms](#). And Shaun Fluker imagined a different outcome in *Wildlands League v Ontario (Natural Resources and Forestry)* on behalf of the [Canadian High Court of Environmental Justice](#).

## *Oil and Gas Law*

ABlawg saw a surprising number of posts on oil and gas law issues in 2017. Some of these posts (by Nigel Bankes [here](#) and [here](#) and by Fenner Stewart [here](#)) covered the ongoing *Redwater* litigation (dealing with the powers of a trustee in bankruptcy to avoid reclamation and abandonment obligations) while others dealt with more traditional oil and gas contract matters, [a lease case](#), a gross royalty trust case ([GRTA](#)), as well as *Geophysical Service Incorporated v EnCana Corporation*, [2017 ABCA 125 \(CanLII\)](#) (the GSI case) dealing with the [loss of copyright protection](#) for seismic data. ABlawg also covered oil and gas law developments on the east coast with a post on [compulsory unitization proceedings](#) as well as a post on an arbitration related to the [Hibernia royalty account](#). Saskatchewan caught our attention with a [traditional lease case](#) as well a rather odd case dealing with [well abandonment obligations](#) and the division of matrimonial property. Finally, Martin Olszynski and Sharon Mascher posted on the [growing wave of litigation](#) facing the oil and gas industry for its role in relation to climate change and [what that might litigation might look like in the decades ahead \(with Meinhard Doelle\)](#).

## *Private Law*

ABlawg posted comments on a range of private law issues in 2017. [Rudiger Tscherning](#) published four comments on cases dealing with conflict of laws issues; Emily Laidlaw considered issues relating to [the tort of invasion of privacy](#); Jassmine Girgis posted comments on some contracts and corporate / commercial decisions (see [here](#), [here](#) and [here](#)), and Nickie Nikolaou and Jonnette Watson Hamilton published several posts on property law judgments (see e.g. [here](#), [here](#), [here](#) and [here](#)).

ABlawg is looking forward to celebrating our 10<sup>th</sup> anniversary in February 2018 – in the meantime we thank all of our bloggers for their contributions and our readers for following us!

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