

# **LAW SOCIETY OF UPPER CANADA**

## **Continuing Professional Development**

### **3<sup>rd</sup> Annual Business Law Summit**

#### **Transaction Legal Opinions: What is “Market” in Opinion Giving?**

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# Market

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**What is the Purpose of the Opinion?**

**Where Do Opinions Come From?**

**What is “Market”?**

- Geographically
- By type of transaction
- By nature of recipient

# The Market Changes Over Time

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- **Co-operative approach**
- **Movements towards standardization**
- **Simplifications (e.g., minute book reviews)**
- **Move away from “non-opinions”**
- **Less wrapping**

# How Does Canadian Opinion Practice Change?

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- Changes in law
- Estey and Green Book
- TOROG

# Keeping Current

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## ***Texts:***

- Estey, *Legal Opinions in Commercial Transactions*, 2d ed. (Toronto: Butterworths, 1997). Third edition may be a game-changer.
- Personal Property Security Opinion Committee Business Law Section, *Personal Property Security Opinion Report* (CBAO, 1997). ( The “Green Book”.)

## ***Conference Papers:***

- Legal opinion programs
- Subject-specific programs

# Toronto Opinions Group

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**SLAW.ca/torogmemos/**

- *Limitations Act, 2002* (Ontario) – Proposals for Improving Contract Drafting and Appropriate Opinion Qualification Practice
- Form of Conflict of Laws Opinion (April 2013) [Third Party Opinions On Foreign Law Documents]
- Form of Limited Partnership Opinion (April 2013) [Limited Partnership Opinion Paragraphs]
- Form of Model Officer's Certificate (Feb. 2007)

## Toronto Opinions Group (cont'd)

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- ISDA Opinions Memo (April 2013) [Summary of Discussion at the December 12, 2012 Meeting of TOROG on ISDA Opinion Practice]
- PIPEDA Qualifications (April 2004)
- STA Opinion Memo (April 2007) [Investment Property Perfection and Priority Opinions under the *Securities Transfer Act, 2006* (STA) and the *Personal Property Security Act* (PPSA) as amended by the STA]. (Being updated.)

# **Tips and Traps**

## **– Negotiation and Logistics**

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- **The first draft**
- **Non-responsive drafts**
- **Laundry list approach**
- **Dealing with local counsel**
- **Creating a crisis**
- **On the same side**
- **What the opinion can't do**