

Commercial Litigation

Commercial litigation represents the heart of our practice. Our lawyers have a wealth of experience in pursuing complex, high-profile and often highly confidential cases across the spectrum of business-related legal matters.

Our reputation and record of success lead many clients to entrust their most significant litigation to us: we have acted for a broad array of corporate clients in "bet-the-company" cases. Lenczner Slaght litigators take on each new challenge with an exacting attention to detail while setting immediate goals within a larger strategic framework. Our well-honed courtroom skills have won the respect of judges and fellow counsel at all levels of the courts – including the Toronto Commercial List, where many of Canada's most complex commercial cases are heard.

A significant part of our work has cross-border and international elements. We have relationships with leading firms in every jurisdiction.

As a firm devoted exclusively to litigation, Lenczner Slaght taps into a deep reserve of relevant expertise across diverse practice areas and industries. Whether a dispute concerns a complex financial instrument, a failed construction project or a successful mining venture, our lawyers understand the nuances and leverage their specialized knowledge to clients' advantage.

Canada's leading legal publication, Lexpert®, has placed Lenczner Slaght at the centre of the bull's eye, its highest rating, for commercial litigation – Toronto.

A Successful Track Record

Ranked by their peers among Canada's best, our commercial litigators have tackled a wide range of challenges, including:

- arbitrations
- class actions
- competition matters
- contract disputes
- director and officer, board and special committee issues
- corporate and securities issues
- governance issues

- corporate fraud cases
- cross-border litigation
- franchising matters
- insolvency and restructuring
- insurance disputes
- real property litigation
- procurement litigation
- regulatory proceedings
- shareholder disputes and oppression claims

RECOGNITION

- Canadian Legal Lexpert® Directory (2024)
Litigation - Corporate Commercial
- Chambers Canada (2024)
Litigation: General Commercial (Ontario)
- Best Lawyers in Canada (2023-2024)
Ones to Watch – Corporate & Commercial Litigation
- Who's Who Legal: Canada (2013-2023)
Litigation, Arbitration
- Best Lawyers in Canada (2024)
Toronto "Lawyer of the Year" in Bet-the-Company Litigation and Corporate & Commercial Litigation
- Canadian Legal Lexpert® Directory (2023-2024)
Litigation - Corporate Commercial
- Best Lawyers in Canada (2023-2024)
Ones to Watch – Corporate & Commercial Litigation
- Best Lawyers in Canada (2023-2024)
Ones to Watch – Corporate & Commercial Litigation, Class Action Litigation, Health Care Law, Labour & Employment Law
- Best Lawyers in Canada (2023-2024)
Ones to Watch – Corporate & Commercial Litigation, Medical Negligence
- Canadian Legal Lexpert® Directory (2022-2024)
Class Actions, Litigation - Corporate Commercial, Litigation - Product Liability
- Lexpert Special Edition: Canada's Leading Litigation Lawyers (2021, 2023)
- The Legal 500 Canada (2022-2024)
Dispute Resolution (New Generation Partner)
- The Legal 500 Canada (2022-2023)
Dispute Resolution (Rising Star)
- The Legal 500 Canada (2021-2024)
Dispute Resolution (Recommended Lawyer)
- Chambers Canada (2020-2024)
Construction; Employment & Labour: Non-Unionised Employees; Healthcare: Contentious (Nationwide – Canada)
- Best Lawyers in Canada (2022-2024)
Corporate & Commercial Litigation, Defamation & Media Law

- Best Lawyers in Canada (2022-2024)
Corporate & Commercial Litigation
- Canadian Legal Lexpert® Directory (2021-2024)
Litigation - Corporate Commercial, Medical Negligence, Professional Liability
- Who's Who Legal: Litigation (2020)
Leading Lawyer
- Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada (2021-2024)
Corporate Commercial Litigation
- Lexpert Special Edition: Canada's Leading Litigation Lawyers (2020-2023)
- The Legal 500 Canada (2023)
Dispute Resolution (Recommended Lawyer), Insolvency & Restructuring (Recommended Lawyer)
- Who's Who Legal: Canada (2020-2023)
Litigation, Arbitration
- Best Lawyers in Canada (2021-2024)
Alternative Dispute Resolution, Construction Law, Corporate & Commercial Litigation
- Best Lawyers in Canada (2021-2024)
Biotechnology and Life Sciences Practice, Corporate & Commercial Litigation, Intellectual Property
- Best Lawyers in Canada (2021-2024)
Appellate Practice, Corporate & Commercial Litigation, Health Care Law, Administrative and Public Law (2022)
- Best Lawyers in Canada (2021-2024)
Corporate & Commercial Litigation, Health Care Law
- Best Lawyers in Canada (2022-2024)
Ones to Watch – Administrative & Public Law, Corporate & Commercial Litigation, Health Care Law, Insurance Law, Medical Negligence
- Canadian Legal Lexpert® Directory (2020-2024)
Litigation - Corporate Commercial, Medical Negligence, Professional Liability
- Canadian Legal Lexpert® Directory (2020-2024)
Litigation - Corporate Commercial, Professional Liability
- Canadian Legal Lexpert® Directory (2020-2024)
Litigation - Corporate Commercial, Medical Negligence, Professional Liability
- Who's Who Legal: Canada (2020-2023)
Litigation, Restructuring & Insolvency
- Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada (2020-2021, 2024)
Corporate Commercial Litigation
- Lexpert Special Edition: Canada's Leading Litigation Lawyers (2019-2023)
- The Legal 500 Canada (2020-2024)
Dispute Resolution (Leading Lawyer), Insolvency and Restructuring (Recommended Lawyer), Labour and Employment (Recommended Lawyer) (2018, 2020)
- Chambers Canada (2020-2024)
Healthcare: Contentious (Nationwide – Canada)
- Best Lawyers in Canada (2020-2024)
Corporate & Commercial Litigation, Defamation & Media Law, Healthcare Law, Medical Negligence
- Best Lawyers in Canada (2020-2024)
Corporate & Commercial Litigation, Health Care Law, Medical Negligence (2023)

- Canadian Legal Lexpert® Directory (2019-2024)
Class Actions, Litigation - Corporate Commercial, Litigation - Securities, Professional Liability (2019)
- Canadian Legal Lexpert® Directory (2017-2024)
Litigation - Corporate Commercial, Medical Negligence, Professional Liability, Litigation - Regulatory & Public Law (2023)
- Benchmark Canada (2018-2024)
Litigation Star – Commercial, Construction, Energy, Securities
- Benchmark Canada (2018-2024)
Litigation Star – Arbitration, Bankruptcy, Commercial
- Benchmark Canada (2019)
Medical Defense/Health Attorney of the Year
- Benchmark Canada (2019)
Labour Employment Attorney of the Year
- Benchmark Canada (2019)
Ontario Litigator of the Year
- The Legal 500 Canada (2014-2024)
Dispute Resolution (Hall of Fame), Insolvency and Restructuring (Recommended Lawyer) (2019)
- The Legal 500 Canada (2019-2024)
Dispute Resolution (Leading Lawyer), Insolvency and Restructuring (Recommended Lawyer)
- Lexpert Special Edition: Canada's Leading Litigation Lawyers (2018-2023)
- Who's Who Legal: Canada (2006-2019)
Litigation (Most Highly Regarded)
- Who's Who Legal: Litigation (2018-2019)
Future Leader
- Who's Who Legal: Litigation (2018-2022)
Future Leader
- Who's Who Legal: Litigation (2018-2020)
Leading Lawyer
- Who's Who Legal: Litigation (2018)
Leading Lawyer
- Who's Who Legal: Litigation (2018-2020)
Leading Lawyer
- Who's Who Legal: Litigation (2018-2020)
Leading Lawyer
- Who's Who Legal: Litigation (2018-2020)
Global Elite Thought Leader
- Who's Who Legal Awards (2018)
Litigation Lawyer of the Year
- Chambers Canada (2019-2024)
Litigation: General Commercial (Ontario)
- Best Lawyers in Canada (2019-2024)
Alternative Dispute Resolution, Class Action Litigation, Corporate & Commercial Litigation
- Best Lawyers in Canada (2014-2024)
Administrative & Public Law, Corporate & Commercial Litigation, Health Care Law, Medical Negligence, Trusts and Estates
- Lexpert Zenith Award (2018)
Mid-Career Excellence in Corporate Commercial Litigation

- Canadian Legal Lexpert® Directory (2018-2024)
Litigation - Corporate Commercial, Medical Negligence, Professional Liability, Insolvency Litigation (2023)
- Canadian Legal Lexpert® Directory (2018-2024)
Intellectual Property (Most Frequently Recommended), Litigation - Intellectual Property (Most Frequently Recommended), Life Sciences & Health (Repeatedly Recommended), Litigation - Corporate Commercial (Repeatedly Recommended)
- Canadian Legal Lexpert® Directory (2018-2024)
Class Actions, Competition Law, Litigation - Corporate Commercial, Litigation - Regulatory & Public Law, Medical Negligence, Professional Liability
- Benchmark Canada (2018-2024)
Litigation Star – Class Action, Commercial, Public Law, Intellectual Property
- Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada (2016)
Corporate Commercial Litigation
- Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada (2018-2021)
Arbitration (2019); Corporate Commercial Litigation
- The Legal 500 Canada (2014-2021)
Dispute Resolution (Leading Lawyer)
- The Legal 500 Canada (2014-2024)
Dispute Resolution (Hall of Fame), Competition and Antitrust (Recommended Lawyer 2018), Intellectual Property (Recommended Lawyer 2018)

- Lexpert Special Edition: Canada's Leading Litigation Lawyers (2017-2023)
- Lexpert Special Edition: Canada's Leading Litigation Lawyers (2016, 2018-2023)
- Lexpert Guide to the Leading US/Canada Cross-border Litigation Lawyers in Canada (2014-2017)
Corporate Commercial Litigation
- Lexpert Guide to the Leading US/Canada Cross-Border Lawyers in Canada (2013-2019)
Dispute Resolution, Corporate Commercial Litigation, Litigation Lawyer to Watch (2013)
- Lexpert Guide to the Leading US/Canada Cross-border Litigation Lawyers in Canada (2015-2017)
Corporate Commercial Litigation, Litigation Lawyer to Watch (2015)
- Chambers Canada (2016-2020)
Litigation: General Commercial (Ontario)
- Chambers Canada (2016-2021)
Litigation: General Commercial (Ontario) (2020); Dispute Resolution: Most in Demand Arbitrators (Nationwide – Canada)
- Chambers Canada (2016-2024)
Dispute Resolution: Class Action (Defence) (Nationwide – Canada); Litigation: General Commercial (Ontario); Litigation: Securities (Ontario)
- Chambers Canada (2016-2024)
Dispute Resolution: Class Action (Defence) (Nationwide – Canada); Healthcare: Contentious (Nationwide – Canada); Litigation: General Commercial (Ontario)
- Best Lawyers in Canada (2018-2024)
Construction Law, Corporate Commercial Litigation, Health Care Law, Medical Negligence, Real Estate Law

- **Best Lawyers in Canada (2018-2024)**
Administrative & Public Law, Class Action Litigation, Competition / Antitrust Law, Corporate and Commercial Litigation, Health Care Law, Medical Negligence
- **Lexpert Special Edition: Canada's Leading Litigation Lawyers (2016-2017, 2020-2023)**
- **Lexpert Special Edition: Canada's Leading Litigation Lawyers (2014-2023)**
- **Benchmark Canada (2012-2015)**
Local Litigation Star - General Commercial, Professional Liability and Regulations, Securities
- **Benchmark Canada (2012-2024)**
Litigation Star – Arbitration, Class Action, Commercial, Insolvency, Securities, Tax
- **Benchmark Canada (2012-2024)**
Litigation Star – Arbitration, Class Action, Commercial, Intellectual Property , Professional Liability
- **Benchmark Canada (2012-2024)**
Litigation Star – Commercial, Government & Regulatory
- **Benchmark Canada (2012-2024)**
Top 50 Trial Lawyer in Canada & Litigation Star – Commercial, Competition, Insolvency, Professional Liability, Securities
- **Benchmark Canada (2013)**
Ontario Law Firm of the Year
Ontario Litigation Firms, Highly Recommended
- **Benchmark Canada (2013-2024)**
Litigation Star – Class Action, Commercial, Securities
- **Benchmark Canada (2014-2015)**
Local Litigation Star - Arbitration, General Commercial, Intellectual Property
- **Benchmark Canada (2017-2024)**
Litigation Star – Class Action, Commercial, Insolvency, Securities; Top 100 Women in Litigation; Top 50 Trial Lawyer in Canada (2021)
- **Best Lawyers in Canada (2006-2020)**
Bet-the-Company Litigation, Class Action Litigation, Corporate & Commercial Litigation, Director & Officer Liability, International Arbitration, Legal Malpractice, Securities
- **Best Lawyers in Canada (2006-2021)**
Alternative Dispute Resolution, Appellate Practice, Bet-the-Company Litigation, Class Action Litigation, Corporate & Commercial Litigation, Director & Officer Liability, Intellectual Property, Legal Malpractice, Personal Injury Litigation, Product Liability, Securities
- **Best Lawyers in Canada (2006-2024)**
Administrative & Public Law, Appellate Practice, Bet-the-Company Litigation, Class Action Litigation, Corporate & Commercial Litigation, Director and Officer Liability Practice, Health Care Law, Intellectual Property, Legal Malpractice, Medical Negligence, Personal Injury Litigation, Product Liability, Securities
- **Best Lawyers in Canada (2006-2024)**
Alternative Dispute Resolution, Appellate Practice, Bet-the-Company Litigation, Class Action Litigation, Corporate & Commercial Litigation, Director & Officer Liability, Health Care Law, Insolvency & Financial Restructuring, Legal Malpractice, Medical Negligence, Securities
- **Best Lawyers in Canada (2013-2019)**
Corporate & Commercial Litigation, Intellectual Property
- **Best Lawyers in Canada (2013-2024)**
Construction Law, Corporate & Commercial Litigation, Health Care Law, Insurance , Medical Negligence, Real Estate Law

- **Best Lawyers in Canada (2013-2024)**
Administrative & Public Law, Class Action Litigation, Corporate & Commercial Litigation, Defamation & Media, Health Care Law, Legal Malpractice Law
- **Best Lawyers in Canada (2014-2024)**
Corporate & Commercial Litigation, Health Care Law, Medical Negligence
- **Best Lawyers in Canada (2014-2024)**
Administrative & Public Law, Corporate & Commercial Litigation, Director and Officer Liability Practice, Franchise Law (2022), Health Care Law, Medical Negligence, Real Estate Law
- **Best Lawyers in Canada (2014-2024)**
Corporate & Commercial Litigation, Health Care Law, Labour & Employment Law, Medical Negligence
- **Best Lawyers in Canada (2014-2024)**
Administrative and Public Law, Corporate & Commercial Litigation, Health Care Law, Medical Negligence
- **Best Lawyers in Canada (2014-2024)**
Corporate & Commercial Litigation, Health Care Law, Insurance, Medical Negligence, Product Liability
- **Best Lawyers in Canada (2016)**
Toronto "Lawyer of the Year" for leadership in Bet-the-Company Litigation
- **Best Lawyers in Canada (2016-2024)**
Class Action Litigation, Corporate & Commercial Litigation, Director & Officer Liability, Insolvency & Financial Restructuring, Labour and Employment, Securities
- **Best Lawyers in Canada (2017)**
Toronto "Lawyer of the Year" in Corporate and Commercial Litigation
- **Best Lawyers in Canada (2017-2024)**
Administrative & Public Law, Alternative Dispute Resolution, Appellate Practice, Corporate & Commercial Litigation, Defamation & Media, Intellectual Property , International Arbitration
- **Canadian Lawyer (2013)**
Top 25 Most Influential Lawyers - Corporate Commercial Law
- **Canadian Lawyer (2014)**
Top 25 Most Influential Lawyers - Corporate Commercial Law
- **Canadian Legal Lexpert® Directory (2011-2019, 2021-2024)**
Commercial Arbitration, Litigation - Corporate Commercial; Class Actions - Up and Coming (2016), 25 Cross-Border Litigators to Watch (2006)
- **Canadian Legal Lexpert® Directory (2012-2019)**
Class Actions (2018), Commercial Arbitration, Litigation - Corporate Commercial, Litigation - Directors' & Officers' Liability, Litigation - Securities, Professional Liability
- **Canadian Legal Lexpert® Directory (2012-2020)**
Class Actions, Commercial Arbitration, Litigation - Corporate Commercial, Litigation - Directors' & Officers' Liability, Litigation - Product Liability, Litigation - Public Law, Litigation - Securities, Medical Negligence (2019), Professional Liability
- **Canadian Legal Lexpert® Directory (2012-2024)**
Class Actions, Commercial Arbitration, Insolvency & Financial Restructuring, Litigation - Corporate Commercial, Litigation - Directors' & Officers' Liability, Litigation - Securities, Medical Negligence, Professional Liability
- **Canadian Legal Lexpert® Directory (2012-2024)**
Class Actions, Commercial Arbitration, Litigation - Corporate Commercial, Litigation - Directors' & Officers' Liability, Litigation - Regulatory & Public Law , Litigation - Securities, Medical Negligence, Personal Injury, Professional Liability, Litigation - Public Law (2023)

- Canadian Legal Lexpert® Directory (2012-2024)
Litigation - Corporate Commercial, Litigation - Defamation & Media, Litigation - Regulatory & Public Law, Professional Liability, Litigation - Public Law (2023)
- Canadian Legal Lexpert® Directory (2012-2024)
Litigation - Commercial Insurance, Litigation - Corporate Commercial, Medical Negligence, Professional Liability
- Canadian Legal Lexpert® Directory (2013-2024)
Litigation - Corporate Commercial, Medical Negligence, Professional Liability, Litigation - Defamation & Media (2021), Employment Law (Employer) (2021)
- Canadian Legal Lexpert® Directory (2013-2024)
Litigation - Corporate Commercial, Medical Negligence, Professional Liability, Litigation - Directors' & Officers' Liability, Litigation - Regulatory & Public Law (2021), Litigation - Securities (2023)
- Canadian Legal Lexpert® Directory (2013-2024)
Estate & Personal Tax Planning, Litigation - Corporate Commercial, Medical Negligence, Professional Liability, Litigation - Regulatory & Public Law (2021)
- Canadian Legal Lexpert® Directory (2014-2024)
Commercial Arbitration, Litigation - Corporate Commercial, Litigation - Defamation & Media, Litigation - Intellectual Property, Litigation - Regulatory & Public Law , Professional Liability, Litigation - Public Law (2023)
- Canadian Legal Lexpert® Directory (2014-2024)
Class Actions, Insolvency & Financial Restructuring, Litigation - Corporate Commercial, Litigation - Directors' & Officers' Liability, Litigation - Securities
- Canadian Legal Lexpert® Directory (2014-2024)
Litigation - Commercial Insurance, Litigation - Corporate Commercial, Litigation - Product Liability, Medical Negligence, Professional Liability
- Canadian Legal Lexpert® Directory (2015-2024)
Litigation - Corporate Commercial, Litigation - Regulatory & Public Law , Medical Negligence, Professional Liability
- Canadian Legal Lexpert® Directory (2016, 2018)
Intellectual Property, Litigation - Corporate Commercial, Litigation - Intellectual Property
- Canadian Legal Lexpert® Directory (2017-2024)
Litigation - Corporate Commercial, Medical Negligence, Professional Liability
- Cassels Brock and Blackwell Award
Constitutional Law and Human Rights
- Chambers Global (2012-2013)
Dispute Resolution: Ontario (Band 1)
- Chambers Global (2012-2014)
Dispute Resolution: Ontario: Canada
- Chambers Global (2012-2024)
Dispute Resolution: Litigation (Canada)
- Chambers Global (2012-2024)
Dispute Resolution: Litigation (Canada); Dispute Resolution: Class Actions - Defence (Canada) (2017)
- Chambers Global (2017-2024)
Dispute Resolution: Most In Demand Arbitrators (Canada); Dispute Resolution: Arbitration (Canada) (2017)
- Corporate Intl Magazine Legal Award (2013)
Commercial Litigation Law Firm of the Year in Canada
- Lexpert Guide to the Leading US/Canada Cross-Border Lawyers in Canada (2013-2019)
Dispute Resolution, Insolvency & Financial Restructuring, Corporate Commercial Litigation, Class Actions, Securities Litigation

- Lexpert Guide to the Leading US/Canada Cross-border Litigation Lawyers in Canada (2013)
Litigation Lawyers to Watch
- Lexpert Guide to the Leading US/Canada Cross-border Litigation Lawyers in Canada (2013-2018)
Commercial Arbitration, Class Actions, Corporate Commercial Litigation
- Lexpert Guide to the Leading US/Canada Cross-border Litigation Lawyers in Canada (2013-2018)
Corporate Commercial Litigation, Defamation & Media Litigation
- Lexpert Guide to the Leading US/Canada Cross-border Litigation Lawyers in Canada (2013-2019)
Dispute Resolution, Corporate Commercial Litigation, Class Actions, Securities Litigation
- Lexpert Guide to the Leading US/Canada Cross-border Litigation Lawyers in Canada (2013-2019)
Dispute Resolution, Corporate Commercial Litigation
- Lexpert Guide to the Leading US/Canada Cross-border Litigation Lawyers in Canada (2014-2017)
Commercial Arbitration, Corporate Commercial Litigation, Defamation & Media Litigation
- Lexpert Guide to the Leading US/Canada Cross-border Litigation Lawyers in Canada (2014-2017)
Corporate Commercial Litigation, Litigation Lawyer to Watch (2014)
- Lexpert Guide to the Leading US/Canada Cross-border Litigation Lawyers in Canada (2015)
Commercial Litigation
- Lexpert Guide to the Leading US/Canada Cross-border Litigation Lawyers in Canada (2016)
Litigation Lawyers to Watch
- Lexpert Special Edition: Canada's Leading Litigation Lawyers (2013-2023)
- Lexpert® (2002)
One of Canada's top 25 commercial litigators
- Lexpert® Guide to the Leading US/Canada Cross-border Litigation Lawyers in Canada (2014)
International Commercial Arbitration, Corporate Commercial, Defamation & Media
- Lexpert® Guide to the Leading US/Canada Cross-border Litigation Lawyers in Canada (2014)
Corporate Commercial
- Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada (2012-2015)
Corporate Commercial Litigation, Directors' & Officers' Liability, Securities Litigation, Class Actions
- Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada (2015-2024)
Arbitration; Corporate Commercial Litigation
- Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada (2016)
Corporate Commercial Litigation; Director/Officer Liability Litigation
- Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada (2016-2024)
Class Actions; Corporate Commercial Litigation; Directors' & Officers' Liability Litigation; Securities Litigation

- Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada (2016-2024)
Class Actions; Corporate Commercial Litigation; Directors' & Officers' Liability Litigation; Securities Litigation
- Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada (2016-2024)
Corporate Commercial Litigation
- Practical Law Company (2011)
Canada - Dispute Resolution
- The Legal 500 Canada (2014-2018)
Dispute Resolution (Tier 1)
- Who's Who Legal: Canada (2006-2019)
Litigation
- Who's Who Legal: Canada (2013-2023)
Litigation

SELECT CASES

- **Liberty Market Building Inc v WeWork Canada LP ULC et al** – Counsel to a Canadian commercial landlord in an action for breach of contract arising from the default by WeWork on certain commercial lease agreements and in respect of concurrent bankruptcy proceedings in the United States and Canada.
- **GlycoBioSciences Inc v Industria Farmaceutica Andromaco SA de CV and Montebello Packaging and Nadro SAPI de CV** – Counsel to Andrómaco, a Mexican pharmaceutical company, a defendant in a dispute relating to the manufacture, approval, and distribution of a wound gel product in Mexico, the United States, and Europe. On a preliminary motion, successfully stayed the action for lack of jurisdiction.
- **Empire Steel Inc v 2469521 Ontario Inc** – Counsel to the Defendants in an action arising from an alleged breach of a supply agreement.
- **Commercial Arbitration** – Counsel to a property development company in a dispute regarding the sale of a partnership interest.
- **Cameron Stephens Mortgage Capital v 272 Ontario Inc** – Counsel to Cameron Stephens Mortgage Capital Ltd. in a dispute regarding an alleged breach of a loan agreement.
- **Max Aicher (North America) Realty Inc v Stelco Inc** – Counsel to a supplier of hot rolled steel bar products in successfully obtaining an interlocutory injunction preventing the termination of a supply agreement for a period of time.
- **GlycoBioSciences Inc v Magna Pharmaceuticals Inc and Robert Van Osdel** – Counsel to MAGNA Pharmaceuticals, Inc. a defendant in a dispute brought in Ontario relating to the approval and distribution of a wound gel product in the United States.
- **Lithium Royalty Corporation v Orion Resource Partners et al** – Counsel to Lithium Royalty Corporation in a successful trial to enforce a binding contract for the purchase of an 85% interest in a Nevada lithium royalty for US\$18.7 million total consideration.
- **Mel Pearl Construction Limited et al v Cubert Inc** – Counsel to a commercial landlord in an action for breach of contract arising from the default of a commercial lease agreement. Successful in obtaining a \$2 million default judgment.
- **Wyse Meter Solutions Inc v Carma Corp** – Counsel to the responding parties in successfully obtaining the dismissal of a motion brought by an

employer seeking an interlocutory injunction to prevent a former employee from continuing to work for their competitor.

- **7912854 Canada Inc v Sunprotection Group Inc et al** – Counsel to leading window coverings designer and manufacturer, Altex, in a commercial action in the Superior Court of Canada, related to intentional interference with contractual relations, and misappropriation of confidential and proprietary information.
- **Boyer v Callidus Capital Corporation** – Counsel to a former employee at Callidus Capital Corporation, who commenced a wrongful dismissal claim in 2017. Callidus counterclaimed against our client for \$150 million, which we successfully argued to have dismissed as an “Anti-SLAPP” proceeding at the Court of Appeal. We then obtained summary judgment in the main employment action for over \$1.3 million plus interest.
- **Costco Wholesale Corporation v TicketOps Corporation** – Counsel to the applicant in a successful application to have American arbitral awards and court judgments recognized and enforced in Ontario.
- **10390160 Canada Ltd et al v Casey et al** – Counsel to a number of investors in a limited partnership commencing an action for breach of contract and seeking a Mareva injunction against the Defendants.
- **Various DCR Strategies Inc Matters** – Counsel to the Plaintiff DCR Strategies Inc. in a number of matters, seeking damages and injunctive relief relating to disclosure and use of confidential information.
- **Grand Land Investments Inc v Cameron Stephens Mortgage Capital Ltd** – Counsel to Cameron Stephens Mortgage Capital Ltd. in an action concerning the alleged breach of a commitment letter.
- **WSIB Investments (Infrastructure) Pooled Fund Trust et al v Plenary Group (Canada) Ltd. et al** – Trial counsel to several public sector pension funds in a breach of fiduciary duty and breach of contract claim with a manager of public infrastructure projects.
- **Confidential Arbitration** – Counsel to the successful claimant in an arbitration arising out of a shareholder dispute.
- **CBRE v Hudson's Bay Company** – Counsel to CBRE in an oppression claim in the Supreme Court of British Columbia against HBC arising from the breach of department store leases in The Netherlands. Successfully opposed HBC’s application to strike CBRE’s claim.
- **Assurant Life of Canada ats GFD** – Counsel to the successful Respondent corporation in a breach of contract dispute concerning an alleged amendment to a contract.
- **2007414 Ontario Inc v Berman et al** – Counsel to the plaintiffs in an oppression and breach of contract dispute regarding real estate developments and not for profit corporations.
- **Jardine Lloyd Thompson Canada Inc v Aon Reed Stenhouse Inc** – Counsel to Jardine Lloyd Thompson in an action alleging breach of fiduciary duties, breach of contract and misappropriation of confidential information.
- **Libfeld v Libfeld** – Counsel to the successful partner of a multi-billion dollar residential and commercial real estate developer and builder in obtaining successful order winding up and selling the partnership.
- **MediPharm Labs Inc v Hexo Operations Inc** – Counsel for the former director of a cannabis company, defending against allegations of bad faith and breach of fiduciary duty by the purchasers of the company in relation to a \$35 million supply agreement entered into during his directorship.
- **Famous Bakers Inc v Liberty Market Building Inc** – Counsel to the

commercial landlord in an action arising from the seizure of restaurant equipment following the default of a commercial lease agreement. Successful in having multiple identical actions dismissed as an abuse of process.

- **New York Brand Studio Inc ats 110 Spadina Avenue Inc** – Counsel to the Respondent tenant in a breach of contract dispute with a landlord. The proceedings were resolved by way of settlement.
- **2041219 Ontario Ltd v Agricorp** – Counsel to the Applicant cattle producer in a judicial review application in respect of claims under a provincial program for livestock administered by the Respondent.
- **Toronto Islands Residential Community Trust Corporation v McLaughlin et al** – Counsel to the Toronto Islands Residential Community Trust Corporation in a dispute over the transfer of two properties on the Toronto Islands in contravention of the terms and purpose of the *Toronto Islands Residential Community Stewardship Act, 1993*.
- **Aon Reed Stenhouse Inc v Iannetta** – Counsel to the successful corporate Defendant in an action seeking injunctive and other extraordinary relief arising from the departure of a former employee of the Plaintiff. Successfully obtained costs against the Plaintiff and resisted the injunctive and other relief as against the corporate Defendant.
- **Industrial Alliance Securities Inc v Kunicyn** – Counsel to an investment advisor in an employment dispute arising from a regulatory investigation.
- **Bakaris v Southern Sun Pharma Inc et al** – Counsel to the respondent corporation and director in a breach of contract application related to the acquisition of a license to grow and sell cannabis in Zimbabwe. Successfully stayed the matter in favour of arbitration.
- **Fiera Private Debt Inc et al v Private Debt Partners et al** – Counsel to the defendants (plaintiffs by counterclaim) in an action alleging conspiracy and breach of fiduciary duties by former employees of a company. The counterclaim alleges that the plaintiffs have engaged in constructive dismissal and promulgated defamatory comments.
- **First Hamilton Holdings Inc et al v Laurentian Bank Securities et al** – Counsel to the Respondent Laurentian Bank Securities in opposing an application for an interim injunction with respect to the Applicants' margin accounts brought at the onset of the COVID-19 pandemic in North America.
- **Zurich Insurance Company Ltd v 2442931 Ontario Inc, Bondfield Construction Company Limited, John Aquino, Vasos Georgiou and Unity Health Toronto** – Counsel to Zurich in an action to rescind surety bonds worth nearly \$300 million, and to recover over \$68 million, due to collusion and misrepresentations in the bidding process for the St. Michael's Hospital Redevelopment Project in Toronto.
- **Various Stakeholders** – Counsel to various stakeholders in competing applications for the appointment of a receiver and manager pursuant to subsection 243(1) the *Bankruptcy and Insolvency Act*, section 101 of the *Courts of Justice Act*, and an application for protection under the *Companies' Creditors Arrangement Act*.
- **Zap Holdings Ltd v Roman Cheese Products Ltd** – Counsel to the defendants in an oppression claim arising from historic share issuances. Successfully resisted as injunction seeking various mandatory orders.
- **Re Investment Management Corporation of Ontario** – Trial counsel to IMCO in a breach of contract claim with manager of public infrastructure

projects.

- **Alliance v Gardiner Roberts** – Counsel to the Defendant barristers and solicitors in an action claiming damages of over \$12 million arising from a dental equipment supply agreement. The plaintiffs alleged breach of fiduciary duties and negligence. At trial, nominal damages of only \$2,000 were awarded.
- **Sakab Saudi Holding Company v Al Jabri et al** – Counsel to Canadian cybersecurity suppliers in dispute between Saudi companies and former Minister of Saudi government. Successfully set aside *Norwich* Orders affecting the Canadian suppliers that had been obtained on an *ex parte* basis.
- **Bayer Inc v Onsite Pharmacy Group Inc, et al** – Counsel to the defendant pharmacies in a dispute over alleged breaches of purchase and sale contracts for specialty pharmaceuticals.
- **Oxford Learning Centres, Inc v Nash et al** – Counsel to the defendant franchisee in proceedings concerning the disputed resale of a franchise.
- **Confidential Commercial Arbitration** – Counsel to the respondents in a partnership dispute concerning multiple high-value residential real-estate holdings in downtown Toronto.
- **The Manitoba Metis Federation v The Government of Manitoba et al** – Counsel to the Manitoba Metis Federation in a dispute with the Government of Manitoba over the cancellation of hydro contracts.
- **Orefinders Resources Inc. v Mistango River Resources Inc.** – Counsel to the successful minority dissident corporate shareholder in various court applications involving a contested proxy battle.
- **2352392 Ontario v MSI** – Counsel to the franchisor defendants in successfully arguing a Rule 21 motion defeating the franchisee's statutory rescission claim. (*Prior to joining Lenczner Slaght*)
- **Maiero v Jovian Capital Corporation** – Counsel to the defendant financial services companies at trial in a breach of contract claim brought by a financial planner and mutual fund salesman plaintiff seeking \$50 million in management fees payable under a royalty agreement. Succeeded in reducing the damages payable to the plaintiff to under \$90,000, and in obtaining the defendants' costs of the proceedings of over \$175,000.
- **The Mangrove Partners Master Fund v TransAlta Corporation** – Counsel to the directors of TransAlta Corporation in an oppression claim brought by a significant shareholder.
- **Reddy v 1945086 Ontario Inc** – Counsel to the Vendors of a multi-tower condominium project in a claim alleging breach of contract.
- **Cappelli v Nobilis Health Corp** – Counsel to the successful defendant in resisting a motion for leave to pursue a claim or secondary market misrepresentation under the *Ontario Securities Act* and certification of a class action under the *Class Proceedings Act, 1992*.
- **CTT Pharmaceutical Holdings, Inc v Rapid Dose Therapeutics Inc** – Counsel to the successful defendant on an appeal from a motion for summary judgment, dismissing a claim of breach of confidential information. The appeal raised the issue of what constitutes a competitive advantage entitling a plaintiff to equitable remedies.

- **GCT Canada Limited Partnership v Vancouver Fraser Port Authority and Attorney General of Canada** – Counsel to Global Container Terminals in a judicial review of a decision of the Vancouver Fraser Port Authority refusing to consider Global Container Terminal's proposed port expansion project.
- **Zanardo v Di Battista** – Counsel to the applicant Estate Trustee in a successful oppression application, and on appeal. The application judge ordered the wind up of the respondent corporation, based on grave breaches of fiduciary duties by the personal respondents, including the usurpation of a significant real estate opportunity. The divisional court affirmed the application judge's remedy and findings.
- **2373480 Ontario Inc v Digreen Homes Vaughan Inc** – Counsel to a land developer and home builder in connection with a dispute relating to a large residential community development.
- **Tiger Calcium Services Inc v Clark Sazwan** – Counsel to the Plaintiff, Parallel49 in an Alberta action relating to alleged misrepresentations during the purchase and sale of a calcium chloride plant.
- **Re Essar Steel Algoma Inc** – Counsel to the GIP Primus, LP in oppression proceedings brought by the Monitor in the context of Algoma's CCAA proceeding.
- **Petrochemical Commercial Company International Ltd v Nexus** – Counsel to individual respondents in an application relating to a worldwide and multijurisdictional Mareva injunction, including Malaysia, Cyprus and Australia.
- **Dhawan v Shails et al** – Successful appeal on behalf of two defendant shareholders from an order holding them liable for the debts of a company pursuant to a personal guarantee. Summary judgment was overturned on appeal. The Court dismissed the plaintiff's claim under the guarantee.
- **Loranger v Tobey et al** – Counsel to the respondents in an appeal from a decision of the Small Claims Court arising from the sale of a used motor vehicle.
- **Boyle & Co v Stableview Asset Management Inc et al** – Counsel to the defendants in an action claiming for unpaid legal fees.
- **Storagevault Inc v Nationwide Self Storage et al** – Counsel to the defendants in a commercial dispute alleging breach of contract and misrepresentation.
- **Paul J. Murphy v Guyana Goldfields Inc** – Counsel to the former Chief Financial Officer of the corporate defendant in a case alleging the breach of an employment contract and seeking damages for libel.
- **Construction Dispute** – Counsel to a general contractor in a dispute with a design subcontractor on a very large transit project regarding design deficiencies and payment for design changes that have arisen over the course of construction.
- **Brahma Finance (BVI) Limited et al v Datawind Inc.** – Counsel to the successful respondents in resisting an appeal from a decision to register a foreign costs award in Ontario.
- **Andersson v Aquino** – Counsel to the plaintiff in oppression proceedings concerning the alleged fraudulent execution of a share transfer agreement. Successfully obtained an order setting aside a finding of contempt of court.
- **myNext v Pacific Mortgage** – Counsel to the plaintiff/defendant by counterclaim in a complex dispute concerning allegations of misrepresentation in the course of a transaction to sell a mortgage

brokerage.

- **Re Carillion Canada Inc.** – Counsel to Carillion Canada Inc. in a motion against its former bank seeking the return of funds debited from the company bank account as set-off during the CCAA stay period. The bank was found to have knowingly breached the stay order, resulting in a significant costs award.
- **Re Hollinger Inc** – Counsel in various proceedings on behalf of Ernst & Young, the court appointed Monitor of Hollinger Inc. and related entities in complex CCAA proceedings.
- **Northrop Grumman Corp v OpenText Corp** – Counsel to the responding party on an interlocutory injunction relating to an alleged business disruption from the termination of software license agreements.
- **DLF Solutions Inc v Maple Leaf Sports & Entertainment Ltd** – Counsel in the successful defence of owner of the Toronto Raptors at trial of an action and on appeal alleging breach of contract with respect to the sale and reconfiguration of courtside seats.
- **Healthy Body Services Inc v Raytek Communications** – Counsel to the plaintiff in the trial and appeal of an action to recover proceeds of fraud alleged to have been knowingly received from a convicted fraudster.
- **Western Larch Ltd v Di Poce Management Ltd** – Counsel to the successful moving party/defendants on a motion for summary judgment, dismissing an \$80 million claim alleging that a shotgun buy/sell offer did not comply with the parties' partnership agreement and amounted to a breach of fiduciary duty and oppression. Successful in upholding the result on appeal. Also successful in opposing a motion for an injunction to prevent the completion of a transaction mandated by a shotgun buy/sell offer.
- **Cambridge Elevating v Niagara Belco** – Counsel to the plaintiff employer in an action and an injunction to restrain former employees from the misuse of misappropriated confidential information.
- **GolfNorth v Rebel Land Holdings** – Counsel to a limited partnership and its general partner in various proceedings contesting the sale of partnership units after the exercise of a right of first refusal.
- **Commercial Arbitration** – Counsel to a landlord in an arbitration to determine fair market rent over a renewal term.
- **Irving Shipbuilding Inc v Attorney General of Canada and CSMG Inc** – Counsel in lengthy judicial review proceedings in Federal Court (Trial Division) and Federal Court of Appeal relating to the procurement process for the contract for refurbishment and ongoing maintenance of Canadian Armed Forces submarines.
- **Flair Airlines v Gregor LLC** – Counsel to Gregor LLC in a commercial and domain name dispute. Successfully resisted a motion for interlocutory injunction by having the action dismissed for lack of jurisdiction.
- **North Elgin Centre Inc v McDonald's Restaurants of Canada** – Counsel to the Appellant, McDonald's, on a successful appeal at the Ontario Court of Appeal over the renewal of a commercial lease.
- **OHS v OSPCA** – Counsel for the respondent charity in a by-law and governance dispute.
- **Robert Simon v Toshiba Global Commerce Solutions Holdings Corporation** – Counsel to Toshiba in a software licensing dispute involving point-of-sale systems.
- **Google Inc v Equustek Solutions Inc** – Counsel to Google in an

appeal to the Supreme Court of Canada from decisions of the Supreme Court of British Columbia and British Columbia Court of Appeal in a novel case regarding the limits to be placed on injunctions granted against non-parties.

- **The Board of Regents of Victoria University v GE Canada Real Estate Equity** – Counsel to GE Canada Real Estate Equity in an appeal to the Superior Court of Justice and to the Court of Appeal from an arbitration award over the determination of ground lease rent for a prominent Bloor Street property.
- **Manga Hotels (Toronto) Inc v GE Canada Equipment Financing GP** – Counsel to GE Canada Equipment Financing GP in a dispute relating to the financing of a hotel construction project.
- **York University v Markicevic** – Counsel to plaintiff University in a successful trial of an action arising from fraud by senior university executives in connection with construction and maintenance work.
- **Atos Inc v Sapient Canada Inc** – Counsel to Atos in a dispute respecting the termination of a subcontract for data conversion and software support. The matter was subject to numerous motions and proceeded to a five week trial before the Ontario Superior Court of Justice, where Atos was successful in recovering approximately \$5.5 million in damages.
- **407 ETR Concession Company Limited v Day** – Counsel to the 407 ETR in a successful motion and appeal to determine a question of law that no limitation period expired prior to the commencement of the action by 407 ETR. The Ontario Court of Appeal's decision is one of the leading cases on the appropriateness requirement of the discoverability provisions in the *Limitations Act, 2002*.
- **Khavari v Mizrahi** – Counsel to a developer in a dispute relating to the construction and management of two condominium developments. Successfully opposed a motion to compel the transfer of shares to the moving parties pursuant to an alleged trust, and opposed a motion to appoint an Inspector.
- **SG Air Leasing Limited v Inchatsavane Company (Proprietary) Limited** – Counsel to the successful applicants in an application to recognize and enforce a worldwide freezing order in respect of an aircraft.
- **DBDC Spadina Ltd v Walton** – Counsel to a series of companies in proceedings involving a receivership over commercial real estate developments and efforts to recover \$110 million in funds improperly diverted. The matter involved dozens of contested motions and several appeals on a variety of commercial, real estate issue and construction law issues, including at the Supreme Court of Canada on the issue of “knowing assistance” by corporate actors.
- **Canadian National Railway Company v Canadian Pacific Railway Company and Shnerer** – Counsel to CN in respect of an injunction seeking non-solicitation and non-use orders against a departing employee who removed and misused confidential information.
- **Re Sino-Forest Corporation** – Counsel for the defendant auditors of Sino-Forest Corporation in connection with a shareholder class action claiming damages in order of \$9 billion on behalf of primary and secondary market purchasers and debt-holders. Successfully resolved proceeding and coordinated precedent setting settlement approval of a Canadian class action within the context of an ongoing CCAA proceeding. Counsel in appeals from settlement approval to the Court of Appeal and Supreme Court of Canada, both of which were dismissed.
- **Bennett v Bennett Environmental** – Counsel to the plaintiff in successful proceedings for advancement of funds to pay legal fees

relating to criminal charges. The Court's decisions in this matter are the leading cases on advancement of funds.

- **TPG Technology Consulting Ltd v Canada** – Counsel to the Government of Canada in a lengthy Federal Court of Canada trial, in which the claim for \$400 million involving allegations of procurement bid for engineering and technical services was successfully defended.
- **Bhasin v Hrynew** – Counsel to the respondents in the Supreme Court of Canada regarding an Alberta action involving a claim for breach of an implied duty of good faith, conspiracy and inducing breach of contract in respect of a commercial agreement.
- **Commissioner of Competition v Rogers Communications Inc** – Counsel to the Commissioner of Competition in proceedings against Rogers Communications Inc. and Chatr Wireless Inc. relating to misleading advertising under the Deceptive Marketing Practices provisions of the *Competition Act*. The application involved successful defence to a constitutional challenge to certain provisions of the *Competition Act* brought by the respondents.
- **Barclays Bank v Metcalfe & Mansfield (Devonshire Trust)** – Counsel to Devonshire Trust in a case arising out of the disruption of the Canadian Asset Backed Commercial Paper market in August 2007. Devonshire Trust was successful after a lengthy trial. The Court of Appeal affirmed the trial judge's decision and found that Barclays' notice terminating the swap transaction was invalid because of Barclays' misrepresentation and bad faith.
- **Barber v Vrozos** – Counsel for the defendant Molson Sport & Entertainment in a trial regarding claims of negligent misrepresentation and interference with contractual relations involving the water rights at a major concert.
- **Mendlowitz v Chiang** – Counsel to an individual in a series of complex proceedings relating to the enforcement of a foreign judgment, bankruptcy, and contempt of court.

In the course of the proceeding, Lenczner Slaght was counsel to the defendant on several trials, motions, and appeals, including in what has become one of the leading cases on civil contempt.
- **Aldo Group Inc v Moneris Solutions Corporation** – Counsel to Moneris in a contractual dispute. Successfully resisted forum non conveniens motion by MasterCard in first instance and on appeal.
- **Commercial Arbitration** – Counsel to a mining company in an arbitration regarding liability and indemnification for historical environmental contamination.
- **Austin v Overs** – Counsel to the defendant in an action relating to an alleged oral agreement for shares in Pizza Pizza.
- **Xerox Corporation v Infinite Media Inc.** – Counsel to Xerox in a software licensing dispute encompassing allegations of copyright infringement.
- **Re Coventree Inc** – Counsel to a former director and officer of Coventree Inc. in a regulatory proceeding before the Ontario Securities Commission in connection with disclosure obligations surrounding the collapse of the Asset Backed Commercial Paper (ABCP) market in Canada. Counsel in appeals to the Divisional Court and Court of Appeal.
- **UBS Securities Canada, Inc v Sands Brothers Canada, Ltd** – Counsel on an appeal from a trial of an application to enforce an agreement to sell securities which were subsequently converted to shares of the TSX.

- **RBC Dominion Securities Inc v Merrill Lynch Canada Inc** – Counsel to RBC on injunction, trial, appeal and at the Supreme Court of Canada in respect of an action against departing investment advisors for a competitor.
- **Gentra Canada Investments Inc v 724270 Ontario Ltd** – Counsel on the enforcement and receivership of leasehold mortgages registered against luxury residential apartments complicated by extensive tenant improvements.
- **Erinwood Ford Sales Ltd v Ford Motor Co of Canada** – Counsel on a successful injunction by local car dealership to preclude the termination of a Dealer Service Sales Agreement by the franchisee Ford.
- **1193430 Ontario Inc v Boa-Franc Inc** – Counsel in a trial and successful appeal of a contractual dispute involving the termination of a distributorship agreement.
- **DAT Villarboit Brantford LP v 2276844 Ontario Limited** – Counsel for Villarboit Holdings Limited in an application/counter-application to enforce rights under a series of contractual agreements relating to a real estate development project.
- **Oshkosh Defense Canada Inc v Department of Public Works and Government Services** – Counsel to the Government of Canada in connection with proceedings relating to the procurement process and bid evaluation relating to a contract for the Canadian Forces for the acquisition of light armoured patrol vehicles and related systems.
- **Thyssenkrupp Industrial Services Canada Inc v DBS Hearn Inc** – Counsel to employee defendants in an action alleging conspiracy and theft of confidential information.
- **2235512 Ontario Inc v 2235541 Ontario Inc** – Counsel to the applicant in an oppression application seeking a sale of shares and wind-up of a corporation.
- **Vallourec Canada Inc v AM Castle & Co** – Counsel to the plaintiff in an action for breach of contract relating to the sale of industrial pipe.
- **Best Theratronics Ltd v Canadian Nuclear Laboratories Ltd** – Counsel to Best Theratronics on an interlocutory injunction motion relating to a commercial contract dispute.
- **Stanbarr Services Limited v Metropolis Properties Inc** – Counsel to the defendant at a trial relating to allegations of mortgage fraud.
- **Delrina Consolidated v Minexco Petroleum** – Counsel to the plaintiff in an action to recover funds advanced pursuant to a promissory note.
- **Terracap v Credit Andorra** – Counsel to the plaintiff in action to recover escrow funds from aborted real estate transaction. Successfully opposed a motion to stay the action on the basis that the Ontario Courts did not have jurisdiction.
- **The Catalyst Capital Group Inc v Veritas Investment Research Corporation** – Counsel to an equity research firm in an action arising from alleged defamatory statements in investment research reports.
- **Paletta International Corporation v McDonald's Restaurants of Canada Limited** – Counsel to McDonald's Restaurants in connection with a dispute relating to a lease for a restaurant.
- **Poshnjari v Timothy's Coffees of the World** – Counsel to the defendant in a breach of contract and fraudulent misrepresentation action.
- **Yaiguaje v Chevron Corporation** – Counsel for the Ecuadorian plaintiffs in a Canadian action for an order recognizing a \$9.51 billion (USD) Judgment obtained in Ecuador against Chevron Corporation

regarding oil pollution in the Amazon. Successful respondents in an appeal to the Supreme Court of Canada of the jurisdictional challenge of the action for recognition and enforcement.

- **Schenk v Valeant Pharmaceuticals International Inc** – Counsel to Valeant in a breach of contract action in respect of a pharmaceutical product.
- **Bradshaw v Langley** – Counsel to the successful respondents on an appeal from a summary judgment motion in a family law matter involving the division of assets and a dispute over whether those assets were held in trust. In June 2015, the matter proceeded to a successful two week trial and award of \$8 million judgement.
- **Sutton v Balinsky** – Counsel to the non-party appellant in a dispute over production of financial records for purposes of a valuation of a commercial enterprise.
- **Iskander v BMO Nesbitt Burns Inc** – Counsel to the successful appellants, BMO Nesbitt Burns Inc. and BMO Trust Company, on an appeal related to withholding tax payable upon transfer of securities from a Registered Account Savings Plan account.
- **Ivanhoé Cambridge II Inc v The Regional Municipality of York** – Counsel to the applicant in a judicial review application arising out of the decision of the Regional Municipality of York to modify and approve an official plan amendment for the City of Vaughan.
- **International Commercial Arbitration** – Counsel to a patent licensing company in an international commercial arbitration relating to a patent license agreement and related US multi-jurisdictional patent litigation.
- **Estate Trustee During Litigation for the Estate of Paul Penna v Landen** – Counsel to Estate Trustee During Litigation of the Paul Penna Estate in a series of proceedings, including two appeals to the Ontario Court of Appeal and a contempt trial, arising out of a massive fraud perpetrated by former Estate Trustee in his administration of the Estate.
- **The Regional Municipality of Peel v MMM Group Limited** – Counsel to SNC Lavalin in connection with a dispute regarding the construction of a water main in Peel Region.
- **East Guardian v Mazur** – Counsel to the applicant lender. Successful in obtaining a Mareva injunction and receivership over the respondent, a guarantor of the loans.
- **Akagi v Synergy Group (2000) Inc** – Counsel for parties in receivership proceedings arising out of a tax driven investment program.
- **MNP LLP v Migao Corporation** – Counsel to the applicant auditing firm in the successful application to enforce an indemnity provision in the audit engagement agreement.
- **Inukshuk Wireless Partnership v 4253311 Canada Inc** – Counsel to the defendants in an action relating to an alleged breach of an agreement to convey radio wave spectrum licenses.
- **Commercial Arbitration** – Counsel to the successful plaintiff in an arbitration involving a commercial contract dispute.
- **Achilles Motors Limited v 1717222 Ontario Inc** – Counsel to successful respondent in application and appeal of a matter involving the interpretation of provisions of the *Business Corporations Act* as applied to an agreement of purchase and sale.

- **Livent Inc v Deloitte & Touche LLP** – Counsel to Deloitte & Touche LLP for the appeal to the Court of Appeal and the Supreme Court of Canada from a trial judgment awarding substantial damages against an accounting firm for the audit of the financial statements of Livent Inc.
- **SCM Insurance Services Inc v Medisys Corporate Health LP** – Counsel to the plaintiffs, SCM Insurance Services Inc. and Cira Medical Services Inc., in an action for an Anton Piller order and an injunction restraining the sale of an independent medical examinations business.
- **Filson v Canadian Wheat Board** – Counsel to the defendant Canadian Wheat Board in a class proceeding by former producers seeking \$15 billion in the Saskatchewan Court of Queen's Bench. Successfully moved to strike allegation made by the plaintiffs.
- **Nova Growth Corp v Boxer** – Counsel for defendants in a lengthy commercial trial involving claims for an interest in the Niagara Falls casino. Lenczner Slaght defeated a range of contract and conspiracy claims, including allegations of computer spoliation.
- **Indcondo Building Corporation v Sloan** – Counsel for defendants, Valerie Sloan and Cave Hill Properties Ltd., in a case relating to limitation periods for actions commenced under s. 38 of the *Bankruptcy and Insolvency Act*.
- **International Commercial Arbitration** – Counsel to a German-based nuclear energy company in an international commercial arbitration relating to a long-term uranium supply agreement.
- **GDL Solutions Inc v Hudson Technology Corporation** – Counsel to the defendants in respect of an injunction brought by a competitor business.
- **Allen-Vanguard Corporation v Richard L'Abbe** – Counsel to the plaintiff in an action against offeree shareholders for breach of contract and fraudulent misrepresentation in relation to a multi-million dollar share purchase transaction.
- **In re Berry** – Successful representation of respondent dismissing all charges brought against him under the Uniform Market Integrity Rules by the Investment Industry Regulatory Organization of Canada (IIROC).
- **Wells Fargo v Best Theratronics** – Counsel to a debtor a claim for breach of contract and enforcement of security against accounts receivable, including on a motion for summary judgment and appeal.
- **Avanti v Argex** – Counsel to the plaintiffs in a proceeding relating to the termination of a services agreement with a mining exploration company. Successfully opposed a motion to stay the action on the grounds that the Ontario Superior Court of Justice lacked jurisdiction and that Ontario was not a convenient forum for the action.
- **Polar Wireless Corporation v Roberts** – Counsel to the successful plaintiff on a motion for an interlocutory injunction preventing former fiduciaries from unfairly competing with their former employer using confidential business information.
- **Southcott Estates Inc v Toronto Catholic District School Board** – Counsel for appellant/respondent on cross-appeal, Southcott Estates Inc., on an appeal to the Supreme Court of Canada regarding the duty to mitigate losses and the availability of the remedy of specific performance in a breach of contract action.

- **Cytrynbaum v Look** – Counsel to defendants/applicants, Michael Cytrynbaum and First Fiscal Management Ltd., in an application, and on appeal, for advancement of legal expenses in an action alleging breach of fiduciary duties and unjust enrichment in connection with the sale of a company's assets.
- **Allied Systems (Canada) Company v Honda Canada Inc** – Counsel to applicant in proceedings seeking declaratory relief for breach of a transportation contract.
- **Stevens v Stevens** – Counsel to the applicant on an application (and on appeal) to enforce the provisions of a domestic contract alleged to contain a fundamental mistake as drafted by the respondent's solicitor.
- **British Energy Limited v Bruce Power LP** – Counsel to plaintiff, British Energy Limited, in an action alleging negligence, breach of contract and breach of trust issues.
- **Wadden v BMO Nesbitt Burns** – Counsel in a successful defence of the defendant brokerage firm at a lengthy trial before the Supreme Court of Nova Scotia in an action for negligence and breach of contract arising out of the alleged manipulation of shares of Knowledge House Inc.
- **Dent Wizard (Canada) Ltd v Catastrophe Solutions International Inc** – Counsel in an application regarding the enforcement of restrictive covenants in a commercial agreement.
- **1214795 Ontario Inc v The Dominion Realty Company Limited** – Counsel to the applicant on an application to interpret the rent provisions within two reciprocating commercial lease agreements.
- **Piedra v Copper Mesa Mining Corp** – Counsel to TSX defendants in a mining case involving allegations of negligence. Successfully moved to strike the statement of claim without leave to amend. The decision was upheld on appeal.
- **Carom v Bre-X Minerals Ltd** – Counsel to the Chief Executive Officer and certain directors in a shareholder class action alleging fraud and misrepresentation through press releases, prospectus statements and accounting relating to gold reserves in a large property in Busang, Indonesia.
- **Ault v Canada (Attorney General)** – Counsel to the Attorney General of Canada in a negligent misrepresentation action relating to pension benefits. Successful appeal of the trial judge's apportionment of damages.
- **Mackie Research Capital Corporation v Mackie** – Counsel for the plaintiffs in a dispute relating to the departure of investment advisors. The defendants were alleged to be in breach of their fiduciary duties as well as various contractual post-employment covenants.
- **Salah v Timothy's Coffees of the World Inc** – Counsel in the trial of an action on behalf of defendant franchisor with respect to an alleged breach of a franchise agreement relating to the renewal of the agreement for an additional term.
- **Canada v Granitile Inc** – Counsel to the Government of Canada in an action to set aside a trial judgment on the grounds of the fraud of the plaintiff in obtaining the judgment. Judgment successfully set aside at trial.
- **Wycliffe Humberplex Limited v Humberplex Developments Inc** – Counsel to a developer in a dispute relating to residential subdivision development.

- **Graf v Preddie** – Counsel to successful respondent on an appeal from a judgment finding breach of a fundamental term of a tenancy contract.
- **Reservoir Group Partnership v 1304613 Ontario Inc** – Counsel in a successful trial of an action enforcing restrictive covenants and non-solicitation clause. Successful appeal of an award of damages and cross-appeal on issues of liability arising from breach of restrictive covenants.
- **Tanglewood (Sierra Homes) Inc v Munro Golf Limited** – Counsel to the successful respondent in resisting a motion for an interlocutory injunction to shut down the respondent's business.
- **Link v Venture Steel** – Counsel in a successful trial and appeal on behalf of the plaintiff for wrongful dismissal and payment for shareholdings and options.
- **Canpages Inc v Quebecor Media Inc** – Counsel for the defendant on a motion for injunctive relief to prevent the defendant from soliciting and competing with customers of the plaintiff.
- **Canadian National Railway Company v Holmes** – Counsel to CN in a complex dispute involving employee fraud, accounting of profits, abuse of process, defamation and negligent exercise of statutory dispute. In the course of the proceedings, obtained Anton Pillar and Mareva injunctions in order to protect evidence and assets related to the alleged employee fraud.
- **Blue Note Mining Inc v Canzinc Ltd** – Counsel in a breach of contract claim. Successfully opposed a motion and efforts to appeal a decision to stay the action on the basis of *forum non conveniens*.
- **Smith v Toronto Police Association** – Counsel in application to declare the actions of a non-share capital corporation to be *ultra vires* the corporation's constitution. On appeal, the Court of Appeal affirmed that the actions were *ultra vires*.
- **Ellins v Coventree Inc** – Counsel in an application for oppression by minority shareholders.
- **Professional Institute of the Public Service of Canada v Canada (Attorney General)** – Counsel to the Government of Canada in a matter concerning the entitlement of public service unions to pension surpluses of approximately \$18 billion. Successful at trial, where the Court dismissed trust, fiduciary duty and *Charter* claims.
- **Animal House Investments Inc v Lisgar Development Ltd** – Counsel in an application involving a shareholder dispute in closely held company where the applicant was seeking a just and equitable winding-up.
- **Dodd v RBC Dominion Securities Inc** – Counsel for the defendants in a trial regarding an alleged negligent misrepresentation with respect to a commercial venture. Successful in defending the action.
- **McDonald's Restaurants of Canada Ltd v Grall Corp** – Counsel to McDonald's in the successful trial of an action involving a claim of a breach of a lease.
- **Berlet v E*Trade Canada Securities Corp** – Counsel in a successful defence at trial of an action against a discount broker involving options and futures trading.
- **Ice Gardens at York University Inc v Parmalat Dairy and Bakery Inc** – Counsel for the plaintiff successful trial of an action by the Ice Gardens for breach of contract for failing to pay for naming rights.
- **Motion Picture Distribution Inc v Loewy** – Counsel for the plaintiff on a motion for injunctive relief enjoining defendant from using confidential information, competing with or soliciting employees from the plaintiff.
- **Horton Plaza Inc v Richtree Inc** – Counsel for the defendant in an

action for breach of a lease.

- **Ferrara v Tabatabai** – Counsel in an appeal concerning oppression remedy claims.
- **Operation 1 Inc v Phillips** – Counsel to a defendant in an action relating to the exercise of a power of sale on a mortgage. Successful motion to set aside Anton Piller and Mareva injunctions.
- **TELUS Communications Inc v Cherubin** – Counsel to an individual in the successful defence of a contempt motion in a commercial dispute.
- **CIBC World Markets Inc v Genuity Capital Markets** – Counsel to an investment bank in high profile action for breach of fiduciary duty, wrongful solicitation of employees and corporate conspiracy.
- **Ng v Richmond York Developments** – Counsel to the plaintiff in a real estate dispute. Successfully moved to register a certificate of pending litigation.
- **McPherson v Scully** – Counsel to the successful plaintiff in a trial relating to a breach of contract regarding the construction of nursing homes in Ontario.
- **Montreal Trust Co of Canada v Call-Net Enterprises Inc** – Counsel to Call-Net Enterprises in a successful defence at trial and on appeal of claim by former senior executives that they were entitled to benefits as a result of a change of control resulting from proxy battle.
- **Kelebay v Petruck** – Counsel for the applicant in a successful application for a declaration that the applicant was the sole shareholder of a company.
- **Christie v Canada** – Counsel to Transport Canada in an application for judicial review concerning the refusal of an individual's application for security clearance to work at Pearson Airport. (*Prior to joining Lenczner Slaght*)
- **Sutherland v Birks** – Counsel in a successful oppression application at trial and appeal on behalf of two shareholders in a family foundation for buy-out of shares and other equitable relief.
- **John E Dodge Holdings Ltd v 805062 Ontario Ltd** – Counsel to a hotel builder in successful action and subsequent appeal for specific performance of a commercial real estate transaction.
- **Tzembelicos v Tzembelicos** – Counsel in an application for partition and sale of partnership property and a counter-application for a winding-up or for an auction and appraisal process to separate the partners. Successful in resisting the application and imposing an auction process.
- **1098748 Ontario Ltd v Loblaws Inc** – Counsel in an appeal regarding the interpretation of a commercial lease.
- **Berkshire Funding Initiatives Ltd v Trinity Capital Corp** – Counsel in a proceeding opposing an injunction for breach of fiduciary duty and theft of confidential information.
- **1235866 Ontario Inc v Visagie** – Counsel to the defendant, the Alpha Group, in an action alleging breaches of contract, fiduciary duties and confidence involving the acquisition and operation of certain gold mines in Greece.
- **Currie v McDonald's Restaurants of Canada Ltd** – Counsel to defendant, McDonald's Restaurants of Canada Ltd., in a class action alleging misrepresentation arising out of a marketing and promotion campaign.
- **1639662 Ontario Inc v 956112 Ontario Inc** – Counsel to a corporation in a negligent misrepresentation and breach of contract case in relation

to a share purchase agreement.

- **Maynes v Med-Eng Systems Inc** – Counsel to a corporation in respect of an action for oppression regarding the redemption of shares under an employee and director stock option plan.
- **Fiorillo v Krispy Kreme Doughnuts, Inc** – Counsel in the trial of an action commenced against a director of Krispy Kreme Doughnuts for oppression and fraudulent misrepresentation.
- **Trade Capital Finance Corp v Cook** – Counsel to a defendant in an action alleging receipt of fraudulently obtained funds, which included a motion and appeal relating to contempt of court.
- **Waxman v Waxman** – Counsel to the defendants/plaintiffs by counterclaim in a complex and lengthy trial involving a family business. Five related actions were heard together relating to issues of breach of fiduciary duty, inducing breach of contract, and solicitor's and auditor's negligence, among other claims.
- **Visagie v TVX Gold Inc** – Counsel to the respondents on an appeal and cross-appeal in an action for breach of a confidentiality agreement, breach of confidence and breach of fiduciary duty arising out of a joint venture between the parties for the acquisition and operation of certain gold mines in Greece.

- **Re Pacifica Papers Inc** – Counsel to an opposing shareholder alleging oppression in a lengthy application, and on appeal in British Columbia, for court approval of a plan of arrangement of the acquisition of a large public corporation in the West Coast forest industry in a share exchange transaction.
- **Deutsche Bank Canada v Sherritt International Corporation** – Counsel for the applicant in an oppression claim brought in New Brunswick regarding steps by the respondent to institute a quarterly dividend to shareholders.
- **Re Growthworks Canadian Fund Ltd** – Counsel to a contingent creditor who obtained an order effectively lifting the stay of proceedings in an application made under the CCAA to allow actions involving the applicant to proceed to trial.
- **Sentinel (Church) Holdings Inc v Enat** – Trial counsel to the plaintiff landlord in a rent dispute with the defendant tenant. Successful at trial.
- **673753 Ontario Limited v Jeya Transportation Ltd** – Trial counsel to the plaintiff load broker in a breach of contract action against the defendant carrier. Successful at trial.
- **Commercial Arbitration** – Counsel to a successful employer respondent in a breach of contract dispute.

SELECT PUBLICATIONS AND PRESENTATIONS

- **Unpacking the Process: 4 Ways to Challenge False Advertising** – Paul-Erik Veel was invited to share his expertise at the Canadian Bar Association program titled *Unpacking the Process: 4 Ways to Challenge False Advertising*. Paul-Erik discussed the different ways consumers and competitors can challenge false or misleading advertising and his experience with the different approaches.
- **Tales from the Courtroom: Mentorship Through Storytelling** – Tom Curry chaired the OBA and LSO's joint program titled *Tales from the Courtroom: Mentorship Through Storytelling*.

- **Be Careful What You Wish For (or, Be Careful What Contest Winner You Give Shares To)** – Sean Lewis authored the blog *Be Careful What You Wish For (or, Be Careful What Contest Winner You Give Shares To)*, which was published on commercialist.com.
- **A 2023 Snapshot: Through the Lens of Lenczner Slaght** – Lenczner Slaght launches *A 2023 Snapshot*, a look at the most significant developments, decisions, business takeaways, and trends in litigation from the last year, across 15 practice areas. Revisit 2023 and look ahead to 2024 through the lens of our expert litigators.
- **Examinations for Discovery Building Block Series: Skills Workshop** – Tom Curry co-chaired The Advocates' Society's *Examinations for Discovery: Building Block Series*. In the fourth and final block of the series, Tom led a skills workshop to allow attendees to put theory into practice.
- **Ten Tips & Reminders for Effectively Using CaseLines** – Christina Shiels-Singh authored the blog *Ten Tips & Reminders for Effectively Using CaseLines*, which was published on commercialist.com.
- **Examinations for Discovery Building Block Series: Using Discovery Transcripts at Trial** – Tom Curry co-chaired The Advocates' Society's *Examinations for Discovery: Building Block Series*. In the third block of the series, Tom led a plenary session featuring judges and leading practitioners as they discussed how to successfully use the discovery transcript at trial.
- **11th Annual Professionalism Issues for Business Lawyers** – Brendan Morrison and Margaret Robbins were invited to share their expertise at the OBA's 11th Annual Professionalism Issues for Business Lawyers. Co-chaired by Margaret, the program also featured Brendan as he discussed, *Modern Contract Formation and the Risks of Casual Communications*.
- **Trial Advocacy Course 2023** – Lidiya Yermakova was invited to be an instructor for Osgoode Hall's Trial Advocacy Course, an introductory course to the techniques of trial advocacy in civil and criminal trials. Lidiya led weekly classes from September 5 to November 21.
- **Examinations for Discovery Building Block Series: Discovery Questions and Techniques** – Tom Curry co-chaired The Advocates' Society's *Examinations for Discovery: Building Block Series*. In the second block of the series, Tom led a plenary session on how to effectively ask powerful discovery questions and other discovery techniques.
- **Evidence for Litigators 2023** – Monique Jilesen was invited to share her expertise at The Advocates' Society's annual program on Evidence for Litigators. Monique participated on the panel *Arguing Hearsay Exceptions and Other Objections*.
- **Exploring the Controversy Around Bill C-11** – Published by Lexpert, Margaret Robbins authored an article exploring the impact of Bill C-11, which was passed earlier this year and has the potential to reshape what it means to be a Canadian on the internet.
- **Examinations for Discovery Building Block Series: Theory, Strategy and Preparation** – Tom Curry co-chaired The Advocates' Society's *Examinations for Discovery: Building Block Series*. In the first block of the series, Tom will led a plenary session on how to properly plan for discovery and strategically use every step of the process to your advantage.

- **44th Annual Intensive Trial Advocacy Workshop** – Lawrence E. Thacker, Risa M. Kirshblum, Sana Halwani, and Jonathan Chen were invited to share their expertise at Osgoode Professional Development's *44th Annual Intensive Trial Advocacy Workshop*.
- **Commercial List Advocacy** – Brendan F. Morrison was invited to share his expertise at The Advocates' Society's Commercial List Advocacy program. Brendan presented on the panel "*Hot Topics in Commercial List Advocacy*".
- **10th Annual Professionalism Issues for Business Lawyers** – Monique Jilesen was invited to share her expertise at the OBA's 10th Annual Professionalism Issues for Business Lawyers program. Monique will discuss "*Issues of Good Faith and Mistakes in Contractual Negotiations*".
- **10th Annual Professionalism Issues for Business Lawyers** – Dena N. Varah was co-chair of the OBA's 10th Annual Professionalism Issues for Business Lawyers, where expert panelists delved into emerging trends, key cases and developments on important ethical and practice management issues, and the resulting impacts to practice.
- **Practical Insights for Young Litigators: Gaining Trial Experience and Second Chairing** – Meghan Bridges was invited to present at an OBA Young Lawyer's Division program. Meghan led a panel discussion on how to gain experience and make the most of your first opportunities in trial litigation.

- **Everything Junior Litigators Need to Know About the Commercial List** – Caroline H. Humphrey was invited to share her expert insights on effective practice and advocacy on the Commercial List for litigators called less than 10 years.
- **Obtaining the Most Favourable Outcome: Using Litigation Technology to Bolster Your Case at Trial** – Jonathan Chen shared his experience and expertise in virtual trial advocacy at the CBA's upcoming program "Obtaining the Most Favourable Outcome: Using Litigation Technology to Bolster Your Case at Trial". He discussed the impact of technology on bringing a case to life and increasing the understanding of testimony and evidence.
- **Examining and Cross Examining Experts** – Risa M. Kirshblum was invited to share her expertise on The Advocates' Society's *Examining and Cross Examining Experts* program.
- **Substantive Law for Litigators: Torts** – Tom Curry presented at the Law Society of Ontario's program "Substantive Law for Litigators: Torts". He spoke on the panel "Cause of Harm".
- **2022 ARIL Virtual Conference** – Brian Kolenda shared his expertise at the 2022 ARIL Virtual Conference. He presented on the panel "*To Supply or Not to Supply: What are the Questions?*".
- **An Evening with the Commercial Bench** – Brian Kolenda co-hosted The Advocates' Society's program titled *An Evening with the Commercial Bench*. The program included a judicial panel discussion on recent developments in commercial matters including practical advice.
- **Second Chair, Not Second Fiddle** – Monique Jilesen presented at The Advocates' Society's program titled "Second Chair, Not Second Fiddle". In this new program, Monique shared top tips and strategies for becoming an effective second chair – both before and during trial.
- **Techs and Balances: The Future of Online Shareholder Meetings in the Post-Pandemic Corporate World** – Christopher Yung authored the Lexpert article "Techs and Balances: The Future of Online Shareholder

Meetings in the Post-Pandemic Corporate World". In this article, Chris analyzes the impact and future of online annual general meetings in corporate Canada.

- **Emerging Issues in Directors' and Officers' Liability 2021** – Matthew B. Lerner shared his expertise at the LSO's program *Emerging Issues in Directors' and Officers' Liability 2021*. Matthew discussed *Internal Investigations and Professionalism Issues*.
- **Litigating Polarizing Legal Issues** – Monique Jilesen co-chaired The Advocates' Society's program *Litigating Polarizing Legal Issues*. In this program, experienced counsel considered how lawyers make the decision to litigate polarizing legal issues, whether there has been a generational change, how these cases affect the way we litigate, and how to manage our client relationships.
- **Young Advocates Braving the Virtual Courtroom: Practical Tips & Advice from the Commercial List** – Sahar Talebi authored the blog *Young Advocates Braving the Virtual Courtroom: Practical Tips & Advice from the Commercial List*, which was published on commercialist.com.
- **The Mareva Injunction: An Extraordinary Remedy** – Sahar Talebi's blog *The Mareva Injunction: An Extraordinary Remedy* was published on commercialist.com.
- **Mastering Summary Judgment Motions** – Monique Jilesen shared her expertise at the OBA's Civil Litigation program *Mastering Summary Judgment Motions*. Monique shared her expert insights on the panel "Practice Perspectives: Commercial, Class Actions, Negligence, and Employment Law".
- **8th Annual Professionalism Issues for Business Lawyers** – Dena N. Varah presented at the OBA's *8th Annual Professionalism Issues for Business Lawyers* program. Dena shared her expertise on the panel "From Shareholder Primacy to Stakeholder Governance? Implications for Directors' Duties and the Oppression Remedy".
- **COVID-19 Restart Series: How the Pandemic May Impact the Canadian Legal Landscape in the Short and Long Term** – Monique Jilesen and Scott Rollwagen led a Mondaq webinar on *How the Pandemic May Impact the Canadian Legal Landscape in the Short and Long Term*. Monique and Scott discussed the potential legal issues surrounding the pandemic now and in the future.
- **Accessory Liability in Canadian Law** – Madison Robins authored the article *Accessory Liability in Canadian Law*, which was published in the Annual Review of Civil Litigation 2020.
- **Commercial Litigation and Arbitration Review** – Scott Rollwagen, Sana Halwani, and Paul-Erik Veel's article "*Do courts have jurisdiction to order virtual hearings? Absolutely!*" was published in the August 2020 volume of the Commercial Litigation and Arbitration Review.
- **Privilege: A Litigator's Guide** – Nina Bombier spoke at The Advocates' Society's program "Privilege: A Litigator's Guide". She shared her expertise on the panel *Waiver of Privilege*.
- **Speculate, Anticipate, Mitigate: How COVID-19 May Impact the Canadian Legal Landscape in the Short and Long Term** – Sana Halwani, Monique Jilesen, Scott Rollwagen, and Paul-Erik Veel shared their expertise at the Virtual GC Forum on May 12.

- **The Supreme Court and duty of good faith: What now?** – Eli Lederman authored The Lawyer's Daily article "*The Supreme Court and duty of good faith: What now?*". In this article, he analyzes two recent cases that raise important questions about the content of the duty of good faith and about honest performance of contractual obligations.
- **Canadian Litigation Forum** – Ian Binnie and Monique Jilesen shared their expertise at the inaugural Canadian Litigation Forum. Ian discussed the current international arbitration landscape for Canadian companies on the panel *International Arbitration - a new paradigm emerges*. While Monique discussed trends in litigation risk for Canadian companies on the opening panel *Setting the Scene: The Canadian Litigation Landscape*.
- **Discoveries: An Update for Litigators** – Matthew B. Lerner presented at the LSO program Discoveries: An Update for Litigators. He shared his expertise on the panel *Getting to the Answer – Issues that arise in the discovery process*.
- **Surviving a Breakup: Dealing with Departing (and New!) Employees, Confidential Information, and IP** – Sana Halwani, Monique Jilesen, Brian Kolenda, and Sarah Millar presented at the GC Forum's Q3 event on October 3.
- **Commercial List Users' Committee Annual Retreat And Reception** – At CLUC's 2019 Annual Retreat and Reception, Monique Jilesen shared her expertise on the panel *What's Happening at the Commercial List*.
- **Commercial Litigation PG: Diversity & Inclusion Breakfast** – Dena Varah spoke at the Advocates' Society D&I Breakfast. The panel discussed the challenges of balancing a litigation practice and parenting commitments.
- **Get Ahead of the Pack: Best Practices for Advising the Board When a Dispute is on the Horizon** – At the 2019 Annual CCCA National Conference for in-house counsel, Monique Jilesen was a member of the plenary panel called "*Get Ahead of the Pack: Best Practices for Advising the Board When a Dispute is on the Horizon*". She shared expert practical advice on litigation avoidance, pre-litigation planning, and sharing risk.
- **Transparency and Disclosure Before Administrative Tribunals** – Jaan Lilles presented at The Advocates' Society's program titled "*Transparency and Disclosure Before Administrative Tribunals*". The program provides an update on the obligations, opportunities, and trends in this area.
- **Cross-Examination: Strategies for Success** – Monique Jilesen was a faculty member at The Advocates' Society's program Cross-Examination: Strategies for Success. The session was part of the Civil Litigation Skills Certificate program. Monique provided expert advice on how to take and keep control of witness testimony.
- **An Evening With the Commercial List** – Monique Jilesen hosted An Evening With the Commercial List, a popular event featuring Commercial List judges, and litigators at The Advocates' Society. This was an opportunity to see your fellow law professionals in a less formal setting.
- **Evidence Essentials for Litigators** – Rebecca Jones spoke at the Law Society of Ontario's program Evidence Essentials for Litigators. She co-presented on the topic "*Ethical Issues*".
- **Litigation Funding: A Tool for Risk Mitigation and Revenue Generation** – Monique Jilesen was the moderator for two panels at Lexpert's Litigation Funding event. The first panel was called "What is litigation funding, what types of cases are suitable, how do companies typically use funding and how does the process work?" The second

- panel called "Due Diligence Process" covered the preparation needed, high-level assessment, and taking a deep dive on due diligence.
- **Waiver of Privilege** – Nina Bombier spoke at the Advocates' Society's program, "Privilege: A litigator's Guide". She spoke about "Waiver of Privilege" and how it impacts solicitor-client privilege.
 - **The Dispute Resolution Review - Edition 10** – Jessica Starck was a co-author of "The Dispute Resolution Review - Edition 10". The publication provides an indispensable overview of the civil court systems of 37 jurisdictions.
 - **Top Cases in Commercial Litigation** – Monique Jilesen spoke at the Advocates' Society's breakfast program on the Top Cases in Commercial Litigation from 2017.
 - **When Family Law Collides: Essential Interdisciplinary Issues** – Matthew Sammon was a faculty member at the 2018 Ontario Bar Association's Institute. He shared his valuable insight on the panel "Closely-Held Corporations: Dealing with Oppression."
 - **Managing the Cost, Risk, and Disruption of E-Discovery in Complex Litigation** – Andrew Parley moderated the CCCA webinar on complex e-discovery projects. He shared his expertise on the best practices for successfully managing these projects, which can be long, complicated, expensive, and disruptive to the business.
 - **Leading Your Case: Opening Statements and Exam-in-chief** – Rebecca Jones spoke at the Advocates' Society's program on strengthening your case through powerful and effective opening statements, and comprehensive examinations-in-chief.
 - **Civil Appeals: The Year in Review** – Dena N. Varah spoke at the Law Society of Ontario's 2017 Civil Appeals: The Year in Review program. She took part in the "Corporate Law" panel and specifically provided her expert opinion on the decision in *Wilson v. Alharayeri*: Expanding Corporate Directors' Personal Liability.
 - **The Advocates' Society: Winning Injunctions** – Monique Jilesen once again served as faculty for The Advocates' Society professional development workshop *Winning Injunctions* on November 24, 2017. Monique discussed the skills and strategies required to seek and oppose injunctive relief.
 - **Evidence for Litigators** – Rebecca Jones spoke at the Advocates' Society's program on effectively obtaining, using, and getting your evidence admitted.
 - **2017 CFA Franchise Law Day** – Eli S. Lederman spoke at the 2017 CFA Franchise Law Day on "Managing Default, Termination and the Duty of Good".
 - **Global Legal Insights: Litigation and Dispute Resolution 2017, Sixth Edition** – Jessica Starck was a chapter author for the "Global Legal Insights: Litigation and Dispute resolution 2017, Sixth Edition (Canada)".
 - **The Advocate Matters** – Tom Curry served as Conference Chair at the 16th Annual Spring Symposium, hosted by The Advocates' Society and American College of Trial Lawyers.
 - **Commercial Litigation Women's Breakfast: Women as Change Agents** – Monique Jilesen moderated at The Advocates' Society's annual breakfast program focusing on how the speakers built their careers and helped shape their communities.
 - **Your First Civil Trial** – Monique Jilesen spoke about examining witnesses at *Your First Civil Trial* for the Ontario Bar Association.
 - **Mastering the Art of Examining Witnesses** – Tom Curry co-chaired

the Advocates' Society's *Mastering the Art of Examining Witnesses*.

- **2017 Toronto Courthouse Series: Telling a Compelling Story** – Tom Curry Co-Chaired Advocates' Society 2017 Toronto Courthouse Series: *Telling a Compelling Story*.
- **The Advocates' Society Civil Litigation Skills Certificate Program - Evidence for Litigators: Evidence Update** – Peter Griffin presented *What every trial lawyer needs to know* for The Advocates' Society Civil Litigation Skills Certificate Program's *Evidence for Litigators: Evidence Update* seminar on November 21, 2016.
- **Act fast to lift automatic stay of proceedings** – Brian Kolenda authored the article *Act fast to lift automatic stay of proceedings* which examines *Bank of Montreal v Bumper Development Corp* for the November 18, 2016 issues of *The Lawyers Weekly*.
- **The Evolution of Complex Litigation** – Scott Rollwagen joined an expert panel for *The Evolution of Complex Litigation* webinar with the *Canadian Corporate Counsel Association* on November 14, 2016.
- **ILCO Advanced Litigation Law Program for Law Clerks** – Monique Jilesen presented *Managing a Complex Trial* at The Institute of Law Clerks of Ontario's *Advanced Litigation Law Program for Law Clerks* on September 14, 2016.
- **The BCSC Decision in Re Red Eagle** – Jessica Starck was the co-author of "The BCSC Decision in Re Red Eagle: Private Placement Survives Regulatory Review in the Context of a Hostile Bid". This article reviews the decision of the British Columbia Securities Commission in *Red Eagle, Re, 2015 BCSECCOM 401*.
- **36th Annual Intensive Trial Advocacy Workshop** – Lawrence Thacker, Risa Kirshblum, Monique Jilesen, Eli Lederman, Matthew Sammon, Rebecca Jones, Jaan Lilles and Dena Varah were among the distinguished guest instructors at the 35th Annual Intensive Trial Advocacy Workshop held on July 5-11, 2015.
- **Cross-Border Issues for Litigators** – Tom Curry spoke at this Advocates' Society Program on June 12, 2015 in which Peter Griffin was co-chair.
- **Understanding Financial Statements 2015 - A Litigator's Guide to Persuading with Numbers** – Monique Jilesen participated in a panel discussion on *Demonstration and Commentary on Effective Advocacy with Financial Statements* on June 10, 2015 as part of the Advocates' Society Program. This program provided insight in to effectively reading and absorbing the information contained in financial statements.
- **Implied Obligations of Good Faith** – Eli Lederman spoke at Lexpert's conference on June 2, 2015 on the Supreme Court of Canada decision in *Bhasin v. Hrynew et al.* which relates to good faith contractual obligations.
- **CBA 2015 National Health Law Summit** – Tom Curry participated in a panel discussion at the May 21, 2015 CBA National Health Law Summit on *A New Era for Experts*.
- **Strategic Considerations for Directors and Officers Before and During Litigations** – Dena Varah and Naomi Loewith, together with Afshan Ali, Senior Counsel at CIBC Legal Department, conducted a webinar as part of the Canadian Corporate Counsel Association/ Canadian Bar Association's Webinar Series on May 14, 2015.
- **Surveillance disclosure tightens** – Brian Kolenda's article appears in the May 1, 2015 issue of the *Lawyers Weekly* published by Lexis Nexis Canada Inc. This article discusses the decision in *Iannarella v. Corbett*, 2015 ONCA 110

which deals with disclosure and the use of surveillance evidence.

"The Court of Appeal for Ontario recently released an important decision on the admissibility of surveillance evidence at trial in *Iannarella v. Corbett* [2015] O.J. No. 726. The case has particularly significant implications for personal injury actions, in which defence counsel regularly consider retaining private investigators to gather evidence that may undermine a plaintiff's injury claims..."

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[Click here for related Legal Post media coverage.](#)

- **Practice Management Essentials** – Tom Curry was invited to speak at the Advocates Society program on Practice Management at Trial: What You Need to Know on April 30, 2015. Objectives include learning how to effectively prepare for trial while managing client expectations and meeting professional obligations.
- **The Advocate Matters: 14th Annual Spring Symposium** – Tom Curry was a guest speaker at the Advocates' Society event *The Advocate Matters: 14th Annual Spring Symposium* held on April 29, 2015.
- **Advanced Questioning Techniques: Mastering Examinations-in-Chief and Mastering Cross-Examinations** – Monique Jilesen and Eli Lederman were on the faculty of this Osgoode Professional Development Program led by Canadian instructors in advocacy skills training and comprising senior members of the bench and bar.
- **Avoiding Allegations of Bad Faith: A Practical Guide to the Termination of Contracts** – Eli Lederman was joined by Elisabeth Presion, Chief Legal Officer for Allen-Vanguard Corporation, and Agnes Di Leonardi, General Counsel for Mazda Canada Inc. on a panel at the 2015 CCCA Spring National Conference. Eli Lederman led the panel discussion and provided the most current guidance and risk management advice on the termination of all types of contracts following the decision in *Bhasin v. Hrynew et al.*
- **Managing Employment Law Issues in the Digital Age** – Matthew Sammon co-chaired the OsgoodePD program *Managing Employment Law Issues in the Digital Age* on April 20, 2015, in which Jaan Lilles and Dena Varah will be speaking. This program will provide insight, advice and answers to your most pressing questions about digital issues in the HR environment.
- **Shareholder Litigation and the Closely-Held Company** – Monique Jilesen spoke at this Osgoode Professional Development Program on April 7, 2015, which provides insight in to key aspects of litigating shareholder disputes.
- **How ADR and court actions can actually work together** – Lawrence Thackers article appears in the April 3, 2015 issue of the Lawyers Weekly published by Lexis Nexis Canada Inc. This article describes the use of Alternative Dispute Resolution in combination with, or supplementary to court proceedings.
- **The power and peril of a Mareva injunction** – Monique Jilesen's article on remedies for corporate victims of fraud appears in the March 13, 2015 issue of the Lawyers Weekly.
- **One chance to choose arbitrator** – Rebecca Jones article was published in the February 13, 2015 issue of the Lawyers Weekly published by LexisNexis Canada Inc.
- **2015 Courthouse Series: Challenging Credibility** – Tom Curry chaired the Advocates' Society program *2015 Courthouse Series: Challenging Credibility*

held on February 12, 2015. This program provided dynamic live and video demonstrations of attacking and defending credibility of both lay and expert witnesses.

➤ **Expanding the duty of good faith – SCC has blown wide open the grounds for a contractual dispute**

Eli Lederman's article appears in the January 30, 2015 issue of the *Lawyers Weekly* published by Lexis Nexis Canada Inc. This article discusses the Supreme Court of Canada decision in *Bhasin v. Hrynew* et al.

➤ **A new approach to resolving questions of law on pretrial motions –** Matthew Lerner and Stephen G.A. Pitel co-authored an article which appeared in the January 19, 2015 issue of *Law Times*.

➤ **Bhasin v. Hrynew: The New Duty To Act Honestly** – Eli Lederman provided his insight in an Osgoode Professional Development webinar on the legal implications of *Bhasin v. Hrynew* et al.

➤ **Evidence for Litigators** – Tom Curry co-chaired the program *Evidence for Litigators* at the Advocates' Society on November 26, 2014. This program was part of the Civil Litigation Skills Certificate Program.

➤ **Cross-Border Issues for Litigators** – Peter Griffin co-chaired the Advocates' Society program *Cross-Border Issues for Litigators* on November 21, 2014.

➤ **Expert Evidence for Litigators** – Monique Jilesen spoke at the Law Society of Upper Canada's program *Expert Evidence for Litigators* on November 7, 2014.

➤ **Expert Evidence for Litigators** – Tom Curry spoke at the Law Society of Upper Canada's program *Expert Evidence for Litigators* on the topic *The New Expert Rules: To What Extent Have They Changed the Landscape* on November 7, 2014.

➤ **Price-Fixing Actions After Pro-Sys v. Microsoft: Worrying Implications of the Supreme Court's Decision** – Paul-Erik Veel co-authored article *Price-Fixing Actions After Pro-Sys v. Microsoft: Worrying Implications of the Supreme Court's Decision* that appeared in the Fall 2014 issue of the *Canadian Competition Law Review*.

"In *Pro-Sys Consultants Ltd. v Microsoft Corporation* and its companion cases, the Supreme Court of Canada recognized the right of indirect purchasers to advance claims for losses arising from price-fixing conspiracies. The Supreme Court's decision, while settling a long-standing doctrinal debate in Canadian law, gives rise to a number of additional problems..."

➤ **The Twelve-Minute Civil Litigator 2014** – Peter Griffin will be a speaker at the Law Society of Upper Canada's program on September 18, 2014. Peter will be speaking on the five rules of evidence that trial lawyers must master to be effective advocates.

➤ **When medical records go missing – Legal regimes and remedies in Ontario differ depending on the source of the information**

Nina Bombier and Paul-Erik Veel co-authored the article *When medical records go missing* which appeared in the July 11, 2014 issue of the *Lawyers Weekly*.

➤ **Bound by the legal chain of events** – Eli Lederman's article appeared in the June 20, 2014 issue of the *Lawyers Weekly*.

➤ **Practice Management Essentials: Managing Your Way to Trial Success** – Tom Curry spoke at The Advocates' Society *Practice Management Essentials* program on May 23, 2014.

➤ **Successful Use of Demonstrative Evidence** – Monique Jilesen is a

guest speaker at the Advocates' Society "Brown Bag" Series session on Successful Use of Demonstrative Evidence held on March 25, 2014.

- **Litigation 101 Breakfast Seminar –**
- **34th Annual Intensive Trial Advocacy Workshop –** Peter Griffin, Monique Jilesen and Eli Lederman were among the distinguished guest lecturers at the 34th Annual Intensive Trial Workshop held in Toronto on July 7-14, 2013.
- **Is Arbitration an Answer to Civil Justice Reform? –** The Honourable Ian Binnie debates the topic against The Honourable Robert Armstrong at the 2nd Annual Civil Litigation Summit, held in Toronto June 11, 2013.
- **Municipal Governance Redux (What Every Mayor Should Know) –** William McDowell presented on the topic at the 2nd Annual Civil Litigation Summit held in Toronto on June 11, 2013.
- **The Basel Convention's Complete Ban on Hazardous Waste Exports –** Nina Bombier's article *The Basel Convention's Complete Ban on Hazardous Waste Exports* appeared in Volume 7 of the Journal of Environmental Law and Practice.
- **Examining and Cross-Examining Experts: Winning Strategies, Trends and Solutions –** Monique Jilesen is a guest speaker at the Advocates' Society Civil Litigation Skills Certificate Program held on Wednesday, May 15, 2013.
- **Cross-Examination: Strategies for Success –** Tom Curry co-chaired a panel on the topic at The Advocates' Society conference on January 30, 2013.
- **Debate on Cameras in the Courts: Time for a Change? –** Will McDowell presented on Cameras and New Media in the Courtroom at the 2012 Fall Convention hosted by The Advocates' Society.
- **Ethical Issues–Identifying Conflicts of Interest –** Peter Griffin presented at the Law Society of Upper Canada at Osgoode Hall.
- **Witness Impeachment: How, Why and Hard Learned Lessons –** Tom Curry presented on the topic at the 2012 Spring Symposium hosted by The American College of Trial Lawyers and The Advocates' Society.
- **Advice for Successfully and Cost-effectively Navigating Multi-jurisdictional Litigation –** Lawrence E. Thacker presented at the CCCA 2012 World Summit.
- **What's New and Exciting in the World of Defamation Law –** William C. McDowell served as a panelist at the 2012 OBA Conference "What's New and Exciting in the World of Defamation Law".
- **Arbitration (International) Recent Developments of Importance –** Thacker, L. and Laxer, J. "Arbitration (International) Recent Developments of Importance". The 2012 Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada.
- **Osgoode's 8th Annual Conference: Evidence Law for the Civil Litigator –** Tom Curry demonstrated the role of Counsel in the Expert Evidence Demo during Osgoode's 8th Annual Conference: Evidence Law for the Civil Litigator.
- **Commercial Litigation -Update on the Oppression Remedy –** Peter Griffin presented at the Northeastern Ontario CPD 2011 Conference.
- **Best Practices for Dealing with Litigation Holds Establishing an E-Document Retention Policy Framework –** Tom Curry presented at the E-Discovery for Government Event.
- **The Evolving Role of Experts in Legal Action –** Tom Curry presented

on the topic at the National Health Law Summit held at the Canadian Bar Association.

- **Securities class actions** – Peter Griffin discusses securities class actions at the 8th National Symposium on Class Actions.
- **Achieving Optimal Results in High-Stake Litigation** – Lawrence E. Thacker spoke on panel discussion at the 2011 CCCA National Spring Conference.
- **Anton Piller Awards in the preservation of electronic evidence** – Matthew Sammon presented at the Law Society of Upper Canada program on Mastering the Art of Complex Civil Motions.
- **Strategy Behind the Cases** – Lawrence E. Thacker presented at the University of Toronto Litigation Association's luncheon discussing some of the tactical decisions and strategies he employs in his cases.
- **Effective Legal Risk Management During a Crisis** – Peter Griffin presented his paper *Effective Legal Risk Management During a Crisis* at the Osgoode Professional Development CLE *The Advanced Legal Guide to Advising the Public Company Board of Directors*.
- **The Advanced Legal Guide to Advising the Public Company Board of Directors: Effective Legal Risk Management During a Crisis** – Peter Griffin served as faculty at this Osgoode Hall Law School conference.
- **Exploring the Limits of Public Interest** – Tom Curry co-authored the article *Exploring the Limits of Public Interest* for the December 10, 2010 issue of *The Lawyers Weekly*.
- **Social Media: What you need to know** – William C. McDowell speaks about the increased use of social networking websites giving rise to several recent precedent-setting cases at Osgoode's Lunch N' Learn teleseminar.
- **Assessing Duties and Powers with Respect to the Investigative Process** – Nina presented at the Ogoode conference.
- **The Thirteenth Annual Course on WRITTEN ADVOCACY** – Peter Griffin served as faculty at the joint program of The Advocates' Society and Osgoode Professional Development.
- **Practicalities of managing class actions litigation and conducting e-discovery** – Glenn Smith speaks at Canadian Institute's 10th Annual National Forum on Class Actions Litigation.
- **Advocacy Before the Federal Court in Intellectual Property Matters – Appeal Proceedings** – Ronald G. Slaght, Q.C. presented at the CBA Program for the appellant about writing the persuasive factum, making a strong first impression, emphasizing strengths and selecting and organizing the most effective facts. He was also part of the panel which will discuss Supreme Court of Canada Issues on intervention, bringing motions, and handling the media and other publicity issues.
- **Emerging Issues in Class Action Pension Law Suits** – Nina Bombier presented a paper *Emerging Issues in Class Action Pension Law Suits* at the CCCA National Spring Conference.
- **Trial Preparation: A Trial from A to Z** – Lawrence Thacker provides individualized feedback to participants at the Advocates' Society Civil Litigation Skills Development Program on April 1, 2009 in Toronto.
- **U.S. Libel Tourism Law Silences Foreign Courts** – William C. McDowell's article *U.S. Libel Tourism Law Silences Foreign Courts* appeared in the March 27, 2009 issue of *The Lawyers Weekly*.
- **Counsel as the Board's Information Gatekeepers** – Lawrence E. Thacker was an instructor at the Federated Press' Intensive Seminar on

General Counsel's Role in Maximizing Board Effectiveness. The seminar was attended by a large number of general counsel for Canadian and U.S. corporations.

- **A Lawyer's Duty to Ensure Access to Justice** – Prepared by William C. McDowell and Usman M. Sheikh for The Advocates' Society Symposium on Professionalism.
- **Penalty Clauses in Canadian Contract Law** – Paul-Erik Veel's article *Penalty Clauses in Canadian Contract Law* appeared in Volume 66 of the University of Toronto Faculty of Law Review.

BLOG POSTS

- **Out of Context, Out of Luck** – Solomiya Zakharchuk co-authored the blog *Out of Context, Out of Luck*, published on [commercialist.com](#).
- **Shareholder Wars: A Receiver Is Not the Remedy** – Bonnie Greenaway and Drew Black co-authored the blog *Shareholder Wars: A Receiver Is Not the Remedy*, published on [commercialist.com](#).
- **Pay to Play: Court of Appeal Enforces Full Payment of Lender Fee** – Barring a very narrow set of circumstances, sophisticated parties with equal bargaining power are generally held to the terms of their agreement. *660 Sunningdale GP Inc v First Source Mortgage Corporation* is a recent example where a commercial developer, 660 Sunningdale GP, was ordered to pay the entirety of the lender fee to the lender, First Source Mortgage Corporation, even though the loan did not proceed.
- **Court Affirms Extreme Circumstances Required to Restrain Power of Sale** – A power of sale is a very common mortgage remedy used by lenders where a borrower defaults under the applicable mortgage agreement. In light of the current interest rate environment, the power of sale process has anecdotally been exercised more frequently. Lenders (and borrowers), however, should keep in mind when such a right can be restrained.
- **Mere Share Ownership Not Enough to Justify Enforcement of Non-Compete Against an Employee** – In the recent decision of *Wyse Meter Solutions Inc v CARMA Corp*, Justice Audrey P. Ramsay rejected an attempt by a former employer to obtain injunctive relief enforcing a non-competition clause against an employee who had been required, as a condition of employment, to purchase shares in the employer.
- **Contempt on the Commercial List** – Court orders must be obeyed. If they are not, the consequences can be severe.
- **Whose Responsibility Is It Anyway? Chatbots and Legal Issues in *Moffatt v Air Canada*** – On February 14, 2024, the British Columbia Civil Resolution Tribunal (which is the equivalent of Ontario's Small Claims Court) issued its decision in *Moffatt v Air Canada*. In less than a week, the decision has made international news as a result of the involvement of Air Canada's chatbot.
- **On the Docket: Cases to Watch (Q4 2023)** – Lynne McArdle provides a summary of our Cases to Watch from Q4 2023. On the Docket: Cases to Watch features a collection of cases, identified by our Research team, that move the law forward in some meaningful way. The cases in this edition are diverse in that they arise in different areas of the law: fraudulent conveyances, securities law, class actions, employment law, discovery, and Crown law.
- **Court of Appeal Polices Strategic Behavior in Valuation Under a Buy-Sell** – A recent decision of the Ontario Court of Appeal illustrates how the doctrine of repudiation of contracts applies to buy-sell

agreements. The Court found that a contract created under a buy-sell mechanism can be repudiated where one party's conduct undermines the integrity of the valuation machinery of the buy-sell.

- **A Contract: ? or ?? The Commercial Impact of Our Emojis** – The King's Bench for Saskatchewan has been turning heads and raising eyebrows ? following a recent decision on the legal force of emojis.
- **Tips from Toronto's Business Court – Takeaways from CLUC Education Day 2023** – The Commercial List Users' Committee (CLUC) held its annual Education Day on June 7. The annual event offers an opportunity for members of the bar to gather with the Judges of the Commercial List to discuss current issues and best practices.
- **“Next Exit, Please”: Escaping a Contractual Buy/Sell Process** – Shareholder agreements commonly contain buy/sell provisions establishing a process by which a shareholder can initiate a sale of their interest or can acquire the interest of another shareholder. The particulars of this process vary. Based on the parties' bargain at the time the agreement is made, there are frequently unique and particular requirements to these provisions. The Ontario Superior Court of Justice emphasizes the importance of abiding by those requirements, as seen in a recent decision invalidating a purported closing of a share purchase transaction for the purchasers' failure to comply with the specific process set out in the Shareholders' Agreement. Justice Vella's reasons in *Leeder Automotive Inc v Warwick* therefore offer an excellent reminder to shareholders that they disregard the requirements of a buy/sell provision at their peril.
- **Deference to 1968** – The Court of Appeal for Ontario has once again reaffirmed the deference afforded to first instance judges in cases of contractual interpretation that rely heavily on the factual matrix—even where the underlying facts and history are unique.
- **There's No Business Like Show Business: Cineplex Awarded \$1.24 Billion in Busted Deal Lawsuit** – At the outbreak of the COVID-19 pandemic, a buyer of any business, particularly a theater operation heavily affected by public health restrictions, might understandably ask themselves; “Can I walk away from the deal?”
- **Instructions to Spies: Are They Privileged?** – In brief, the decision by Justice Boswell of the Commercial List suggests that solicitor/client privilege has been narrowed, and litigation privilege has become easier to lose. For seven years, Catalyst Capital and West Face Capital have been at war. Their latest skirmish, over privilege, might change the way that lawyers interact with witnesses, investigators, and the media.
- **Wastech Services Ltd v Greater Vancouver Sewerage and Drainage District: The SCC Drops the Other “Good Faith” Shoe** – The Supreme Court of Canada released its long-anticipated decision in *Wastech Services Ltd v Greater Vancouver Sewerage and Drainage District* today, a major decision concerning the scope of the obligation to perform and enforce contracts in good faith. While it rejected any suggestion that it is the Court's role to impose unbargained-for terms on a private agreement, the Court affirmed a general power—that cannot be excluded—to police the exercise of discretion under contracts where its exercise would undermine the purpose of the parties' agreement.

- **The Disaster Sequel: The Court of Appeal Weighs in on Tommy Wiseau’s Best Worst Appeal Strategy** – Sequels in the movie business, just like appeals in the judicial system, carry certain undeniable risks. For every triumphant *The Empire Strikes Back*, there are dozens of *Speed 2: Cruise Control*, *Jaws: The Revenge*, *Weekend at Bernie’s II* (or, heaven forbid, *Return of the Jedi*) which exist as a cautionary tale to revisiting the same material again.
- **SCC Expands the Duty of Honest Performance: Silence or Non-Disclosure Can Now Also Constitute a Breach** – This past Friday, the Supreme Court of Canada released its much-anticipated decision in *C.M. Callow Inc v Tammy Zollinger* (“*Callow*”), the first of two appeals heard in December 2019 seeking clarification on the scope of the organizing principle of good faith recognized in *Bhasin v Hrynew* (“*Bhasin*”).
- **Court of Appeal Affirms Jurisdiction to Hear Appeals in Writing** – The old saying that “to a hammer, every problem looks like a nail” is disquietingly relevant to traditional approaches to the dispensation of justice. For a long time, commentators have observed that the legal profession and the Courts lag behind much of the rest of society in leveraging digital resources to improve the quality, speed, and efficiency of litigation.
- **Pandemic Pandemonium: Anticipating and Mitigating Risk** – On May 11, 2020, Canadian Lawyer held a webinar titled “COVID-19: Litigation Fallout: What Organizations Need to Do to Mitigate Their Risk” as part of their online event series focused on steering organizations through crisis. The risk of liabilities and potential for litigation are top-of-mind as businesses navigate from the pandemic towards its aftermath. Michelle Kelly, a partner at Cox & Palmer, led the speakers as they discussed practical tips and what to expect upon returning to the ‘new normal’. Below are some key takeaways for organizations, and their in-house and external counsel.
- **Small Changes, Big Implications: 2019 Sees Significant Corporate and Insolvency Law Amendments** – Earlier this year, in Bill C-97, Parliament introduced significant changes to the *Canada Business Corporations Act* (“*CBCA*”), the *Bankruptcy and Insolvency Act* (“*BIA*”) and the *Companies Creditors Arrangement Act* (“*CCAA*”). The changes to the BIA and CCAA have now been proclaimed in force effective November 1, 2019.
- **Don’t Believe What You’ve Heard: Provincial statutory trusts do survive bankruptcy** – A five-judge panel of the Court of Appeal for Ontario has upset the long-standing conventional wisdom among bankruptcy and insolvency practitioners in Ontario about the fate of provincially-created statutory trusts in bankruptcy.
- **Privacy and Social Media – Not Just a Numbers Game** – In an age where individuals catalogue almost every aspect of their lives on some form of social media, the obligation to disclose all relevant documents in the context of civil litigation can seem both onerous and invasive. Courts have grappled with how disclosure obligations should be balanced with privacy rights.
- **Clear breach, but no injunctive relief: the irreparable harm hurdle** – The late 2017 decision of Justice Bielby in *Nu Image v Seager* highlights the difficulties faced by litigants seeking to restrain breaches of non-solicitation obligations. The irreparable harm limb of the *RJR-MacDonald* test remains the primary stumbling block for such motions.
- **Shell Game Liability: Recovering Damages in Complex Fraud Cases** – How can an innocent victim recover their losses when a fraudster uses multiple corporations as part of a complex “shell game” to hide and co-

mingle misappropriated funds? In *DBDC Spadina v Walton*, the Ontario Court of Appeal considered a complex multi-real estate transaction investment fraud, perpetrated over an extended period of time with the involvement of numerous corporate actors – all under the control of the fraudster.

- **Personal liability in the corporate context: open-ended, unclear and expansive** – The Supreme Court of Canada’s recent decision in *Wilson v Alharayeri*, may have far reaching implications for corporate director liability. The unanimous decision affirmed an award for compensation for oppression directly against two directors of a corporation by relying on the leading case on the issue, *Budd v Gentra*.
- **The Limitation Period for the Enforcement of Foreign Judgments in Ontario** – Like most jurisdictions, Ontario requires parties contemplating litigation to bring an action within a certain period of time. Pursuant to the *Limitations Act, 2002*, the standard limitation period applicable to most causes of action in Ontario is two years, after which a plaintiff will not be able to maintain the action. Like most jurisdictions, Ontario requires parties contemplating litigation to bring an action within a certain period of time. Pursuant to the *Limitations Act, 2002*, the standard limitation period applicable to most causes of action in Ontario is two years, after which a plaintiff will not be able to maintain the action.
- **Entire agreement clauses: usually, but not always, the entire story** – Entire agreement clauses are often used to insulate contracting parties from disputes over pre-contractual representations. The recent decision of *Curtis Chandler v Karl Hollett* demonstrates how bare allegations of pre-contractual misrepresentation will rarely win out over such clauses.
- **The UK Supreme Court Revisits "But for" Causation in Economic Negligence Cases** – “If my grandmother had wheels, she’d be a wagon” –Yiddish proverb
- **Maximization of value: expanding the test for derivative actions** – Those wishing to bring a derivative action against a corporation should take note of the recent decision of *Melnyk v Acerus Pharmaceuticals Corporation*, which provides further guidance on the test for being granted leave to bring a derivative action.
- **Door left open for negligence claims by investors against corporate directors** – Does the director of a corporation owe a common law duty of care to that corporation’s security holders? The prevailing view has been that directors do not owe a duty of care to a corporation’s investors. However, the Ontario Superior Court in *Poole v Phillips* determined that the answer to this question is not clear enough to permit summary dismissals of such negligence claims. In *Poole*, the Court refused the Defendants’ motion for summary judgement, holding that a negligence claim brought by investors against a corporation’s directors disclosed a genuine issue requiring trial.
- **The Supreme Court Puts Down its Legal Dictionary** – Sometimes small disputes about technical matters unearth deeper truths about how the law works. This happened in a decision released on January 27, 2017 by the Supreme Court of Canada. *Sabeen v Portage La Prairie Mutual Insurance Co* on its face concerned a narrow issue of interpretation defining amounts payable under automobile insurance policies. In resolving this issue, the Court bumped into a much more general issue concerning whether and how jurisprudence influences the meaning of words used in private contracts.

- **When Does the Clock Start: Limitation Periods in Contractual Claims for Indemnification** – The hardest mistake to fix in litigation may be missing the limitation period. Almost every other mistake can be fixed, but missing that critical window for bringing a claim can be catastrophic.
- **Commercial Law Backwards and Forwards: The Supreme Court Dials Back the Remedy of Rectification** – Kierkegaard famously observed that life can only be understood backwards. Many a commercial lawyer finds this easy to understand. It is a reality of modern commercial life that increasingly complex and sophisticated transactions can have implications that are not understood or anticipated when they are executed, but only become clear later, and in hindsight. This may especially be the case where complex transactions need to be executed quickly and in real time.
- **Don't Make Clients Dig for the Truth: The Importance of Candor for Professional Service Firms** – All professionals deal with difficult clients from time to time. Difficult clients are often characterized by an aversion to receiving negative opinions and a refusal to heed the counsel of the professionals they have retained. A natural temptation when dealing with such clients might be to stop giving negative opinions to them and to instead focus on simply completing the tasks which the client has instructed. However, as the recent decision in *Western Troy Capital Resources Inc v Genivar Inc* demonstrates, in order for professional firms to avoid potential liability, they must ensure that they state their negative opinions clearly to their clients, especially in circumstances where a professional believes that the work which they are being retained to complete is futile.
- **At the Boundaries of Commerce, Concealment, and Common Sense: Royal Bank of Canada v Trang** – “Privacy is something you can sell, but you can't buy it back.”
- **Can an expert retain counsel to help prepare an opinion? Absolutely.** – Is it improper for an opinion expert to hire his or her own lawyer to help prepare an opinion? That was the issue in the recent decision of Justice Perell in *Wright v. Detour Gold*. Justice Perell ruled that there was nothing improper in an expert retaining counsel to assist with the preparation of the opinion. The reasons are interesting in their conceptualization of the expert's overriding duty to the Court, and for their interpretation of the recent Supreme Court of Canada case, *White Burgess Langille Inman v. Abbott and Haliburton Co.*, concerning the admissibility of opinion evidence.
- **Appealing Commercial Decisions: Where To?** – Businesses need to be able to resolve disputes quickly and effectively. For that reason, the Ontario *Business Corporations Act* (the “OBCA”) provides that any appeal of an order made under the OBCA lies to the Divisional Court (a special branch of the Superior Court of Justice), instead of the Court of Appeal. In theory, appeals to the Divisional Court are resolved more quickly than appeals to the Court of Appeal.
- **Less is Not Always More: Evaluating Causes of Action in Carriage Motions** – Barrick Gold Corporation's disclosure, on April 10, 2013, that a Chilean court had issued an interlocutory order suspending the construction of its Pascua-Lama mine led to a substantial drop in its share price. This was further exacerbated the following month, when Chilean environmental regulators found serious environmental violations and shut down the project. Both Rochon Genova LLP (“Rochon”) and Koskie Minsky LLP (“Koskie”) initiated class proceedings against Barrick Gold Corporation (“Barrick”) on behalf of disgruntled shareholders, with billions of dollars of damages claimed.

It is well-known that there cannot more than one certified class action in

the same jurisdiction representing the same class in relation to the same claim, and the Ontario Court of Appeal's recent decision in *Mancinelli v Barrick Gold Corporation* confirmed that it was Rochon who would have carriage of this shareholder class action.

The basic test for carriage motions is well-established, and was not disputed by the parties.

In this case, the primary issues were the nature and scope of the causes of action advanced by Rochon and Koskie. Rochon's claims on behalf of class members were broad, alleging misrepresentations in Barrick's environmental compliance, its capital expenditure budget, and its financial statements. It also included claims of conspiracy and fraudulent concealment.

Koskie, on the other hand, opted for a more "streamlined" approach to the pleadings, focusing only on alleged misrepresentations about environmental compliance.

Koskie argued that their streamlined approach ought to be preferred. Putting what the Ontario Court of Appeal called a "novel spin" on the cause of action factor, Koskie submitted that the focus of the factor is "workability", and that it should be given priority over other factors. In general, they argued that "less is more" when it comes to the scope of the action. Time-consuming and unwieldy causes of action should be avoided.

In spite of these submissions, the Ontario Court of Appeal affirmed the lower courts' decisions to grant carriage of the action to Rochon. The Court of Appeal confirmed that the ultimate question before a court in a carriage motion is whether counsel's proposed strategy is reasonable and defensible. Without delving too deeply into the merits of the case, the motions judge concluded that both the conspiracy claim and the fraudulent concealment claim advanced by Rochon had a strong rationale and were genuinely viable. On that basis, the Court of Appeal found it was reasonable for the motions judge to conclude that a more comprehensive litigation strategy was in the best interests of the class.

Importantly, at least for those dealing with these issues at first instance, the Court of Appeal did not close the door to those plaintiffs' counsel who took a similar "less is more" strategy. Rather, referring to the broad discretion of a judge on a carriage motion, the Court underlined merely that "this was a call [the motions judge] was entitled to make". It thus seems that a future motions judge would be entitled to come to the opposite conclusion, in an appropriate case.

With notes from Sarah Bittman

- **Freezing your own funds: How to vary your Mareva injunction –** What happens when you take the unusual step of freezing your own assets with a Mareva injunction, but later find you need to access the funds? In *Yan v. Chen, 2015 ONSC 4149*, the Ontario Superior Court considered an unusual request — a motion by the plaintiffs to vary a Mareva injunction they obtained in respect of their own bank account.

The two couples involved in the action - the plaintiffs, Yan and Wang, and the defendants, Chen and Szeto - each alleged that the other defrauded them of millions of dollars. The dispute gave rise to multiple criminal, quasi-criminal and civil proceedings.

In December 2013, the plaintiffs applied for injunctive relief in respect of accounts owned by them and the defendants. Based on the evidence, the defendants had access to the plaintiffs' account and had attempted, albeit unsuccessfully, to transfer funds from that account into their own. To prevent future attempted transfers, the plaintiffs included their account as part of the Mareva injunction. The Court granted the

injunction, freezing that account, as well as various assets and accounts owned by the defendants.

The plaintiffs subsequently brought a motion to release funds from their frozen account to pay legal fees. The defendants brought a cross-motion to release funds from their own account for the same reason.

The test to be applied in varying a Mareva injunction to permit frozen funds to be used for living and legal expenses is set out in *Waxman v Waxman*, 2007 ONCA 326. However, the Court determined that different considerations apply when it is the plaintiff seeking the release of his or her own frozen funds. The plaintiff must first establish that he or she has a proprietary right to the funds. If the plaintiff satisfies this burden, the Court will go on to consider such factors as why the monies were frozen in the first place, the status of the action, the proposed use of the funds, and any competing claims to the funds.

Here, the Court granted both motions, finding that each party had established a proprietary right to the funds in their respective accounts. However, given the credibility issues and the particular circumstances of the litigation, the Court released only a portion of the funds requested by the parties and ordered that the money was to be held in trust by their respective solicitors, to be used only for legal fees. The Court also specifically ordered that the funds were not to be used by the defendants to pay any costs awards to the plaintiffs.

In addition, the Court stayed all civil proceedings between the parties pending a determination of the issues in the action. The Court noted that the plaintiffs had access to significant funds to pay legal expenses. However, instead of proceeding with the action, they launched a series of other proceedings, both civil and criminal, incurring significant legal fees and requiring motions for access to additional funds to pay the fees.

This case, while peculiar, provides an important lesson: if you freeze your own bank account, keep your litigation costs under control and avoid engaging in multiple lawsuits. Otherwise, you may not be able to fund your own lawsuit.

- **SCC Espouses "Generous and Liberal Approach" to Recognition & Enforcement of Foreign Judgements** – The Supreme Court of Canada has released its highly anticipated decision in *Chevron Corp. v. Yaiguage*, 2015 SCC 42.
- **Partial indemnity costs nearing the substantial indemnity scale in Ontario (Minister of Finance, Motor Vehicle Accident Claims Fund) v Chartis Insurance Company of Canada** – In a recent decision, the Ontario Superior Court awarded costs on a partial indemnity scale which constituted 75% of the costs actually incurred by the successful party. The decision demonstrates the possibility of a generous costs award on a partial indemnity scale where the issues at stake are important and complex, and both written materials and oral submissions are of high calibre.
- **Only Clear Exceptions to the "Fresh Start" Principle Need Apply** – The Court of Appeal for Ontario, in *Korea Data Systems (USA), Inc. v. Amazing Technologies Inc.*, 2015 ONCA 465, recently affirmed that exceptions to the "fresh start" rule in bankruptcy must be construed narrowly and applied only in clear cases. The Court grounded its ruling in what it characterized as the "twin" goals of the *Bankruptcy and Insolvency Act*: (1) the equitable distribution of the bankrupt's assets among the bankrupt estate's creditors; and (2) the financial rehabilitation of insolvent individuals (para. 1).
- **Appeal dismissed in contract dispute over Canadian film rights** – In *PDM Entertainment Inc. v. Three Pines Creations Inc and Louise Penny*, the Ontario Court of Appeal had to decide who was entitled to produce

the next television adaptation of the fictional Chief Inspector Gramache.

- **Interest Act Protection Applied to Promissory Note** – The Ontario Court of Appeal ruled in *P.A.R.C.E.L. Inc. v. Acquaviva*, 2015 ONCA 331 that section 8 of the Interest Act may apply to a promissory note even where it is not directly secured by a mortgage.
- **Québec Court of Appeal Affirms Duty to Protect and Enhance Brand** – The Quebec Court of Appeal affirmed the trial decision in *Dunkin Brands Canada Ltd v. Bertico Inc.* establishing a duty on franchisor Dunkin Brands to take reasonable steps to protect and enhance the brand in the face of competition. The effect of the decision will have a lasting and potentially far reaching impact on the duties of parties to franchise agreements.
- **Getting the Full Story** – *Lo Faso* brings up the tension between fair and just court process and ensuring that all facts are available to adjudicate a dispute.
- **Striking a Jury Notice: When Is It Appropriate to "Wait and See"?** – In *Chandra v. CBC*, 2015 ONSC 2980, Justice Graeme Mew rejected the CBC's argument that the jury notice should be struck because the issues and the expert evidence were too complex for the six randomly-drawn members of the public. However, the Court held that it might revisit that ruling as the trial progressed – the "wait and see" approach.

The plaintiff Dr. Chandra is a world-renowned professor and researcher in the field of nutrition and immunology. He sued the CBC for defamation following its broadcast of a documentary that claimed he fabricated his research results and committed academic fraud. The CBC pleaded defences of truth, fair comment and responsible communication on a matter of public interest.

Before settling with the Plaintiff, the CBC's co-defendants had served a jury notice in the action. The CBC brought a motion to strike that notice.

The CBC argued that a jury was ill-suited to the task of choosing between competing experts whose evidence would be highly complex and technical. According to the CBC, the case would turn on Dr. Chandra's scientific integrity, and the trier of fact would need to have an in-depth understanding of his work and its place in his field. At least six experts would be testifying over the course of a nine-week trial.

Dr. Chandra painted a very different picture of the trial. He argued that the central issue in the case was whether or not he had fabricated research results and misappropriated money. The jury would not be called upon to decide whether the studies reached sound conclusions, but merely whether Dr. Chandra actually carried out the research at all — a task well within the jury's traditional bailiwick.

Justice Mew noted the parties' divergent predictions on how the trial would unravel. The court held that it was unable to determine which version of events would ultimately prove correct, and accordingly dismissed the motion to strike the jury notice. Relying on the Supreme Court's decision in *King v. Colonial Homes Ltd.*, [1956] S.C.R. 528, Justice Mew held that the right to a trial by jury was a substantive right "of which a party ought not to be deprived except for cogent reasons."

The court held that the issue could be revisited during the trial "if the combined effect of the legal issues and the factual issues as they emerge at trial so warrants." (para. 50) In other words, "wait and see".

However, as some courts have recognized, the "wait and see" approach is often inappropriate. In *Cowles v. Balac* (2006), 83 OR (3d) 660 (C.A.), the majority of the Court of Appeal affirmed the trial judge's decision to strike a jury notice at the outset of trial on the basis of scientific

complexity. Justice Borins, in dissent, would have preferred that the trial judge take a "wait and see" approach.

The "wait and see" approach will often be a less efficient process. Among other things, it means that the jurors may spend weeks hearing evidence, only to be sent home by the judge without deciding the case.

It also forces a party who wishes to strike a jury notice to make some difficult tactical decisions. The more complex and technical the expert evidence a party leads, the more likely they are to succeed in striking the jury notice during trial. However, if the motion fails, the party may be stuck with having adduced evidence that the jury may have difficulty comprehending.

*Research contributed by Anne-Marie Zapf-Belanger, 2015 summer student

- **LCBO Loses Privacy Dispute over Wine Club Member Information** – The Liquor Control Board of Ontario has lost a protracted dispute with the Information and Privacy Commissioner (IPC) over its right to collect the personal information of wine club members in the recent case of *Liquor Control Board of Ontario v. Vin De Garde Wine Club*, 2015 ONSC 2537.
- **Investigation into Bell's Targeted Ad Program Identifies Surprising Findings** – In summer 2013, Bell announced the November launch of its Relevant Ads Program (RAP). RAP involved the use of Bell customer personal information for the purpose of delivering targeted ads to Bell customers. Bell would charge a fee to advertisers engaged in the program.
- **Governing Law in Contractual Disputes – The Importance of Choice of Law Clauses** – Whose law governs contractual disputes when the parties are in different jurisdictions and the contract itself is silent on the matter?
- **The Admission of Expert Evidence: The Role of Impartiality** – It is commonly accepted that the evidence of expert witnesses must be impartial and that they owe a duty to the court to give fair, objective and non-partisan opinion evidence.
- **Bankruptcy won't shield debtor from Court's contempt powers** – A fundamental purpose of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "Act") is the financial rehabilitation of the "honest but unfortunate" debtor. One way that this purpose is achieved is through the automatic stay of proceedings granted under section 69(1)(a) of the *Act*.
- **Versa Fittings ruling underscores high bar to relieve insurer of duty to defend** – The recent decision of the Ontario Superior Court in *Versa Fittings v. Berkley Insurance Co.* (2015 ONSC 1756) reinforces that a Rule 21 motion is an expedient way to secure a ruling on whether an insurers duty to defend has been triggered.
- **Defamation battle from the fringes of the Web ends in split decision** – The political blogosphere is rude, aggressive and insulting, but the ruling in *Baglow v. Smith* (2015 ONSC 1175) suggests that it is nonetheless a tough forum in which to make out a case of defamation.
- **Access to Justice a Key Concern in Certification Decisions** – The Ontario Divisional Court has recently affirmed the importance of access to justice as a factor in determining whether to certify a proposed class action.

- **Unjust Enrichment Reversed On Appeal – Deprivation Not Sufficient** – At trial, the Judge held that the plaintiff and the defendant real estate agents should share the 10% commission on the sale of a plaza and gas station.
- **Court's CCAA supervision trumps forum selection clause** – An ongoing insolvency proceeding under the *Companies' Creditors Arrangement Act* can now be added to the short list of circumstances in which a court will decline to follow a forum selection clause in a commercial contract.
- **Court of Appeal clarifies law on absolute privilege** – In *Salasel v. Cuthbertson* (2015 ONCA 115), the Court of Appeal provided welcome clarification on the doctrine of absolute privilege, in a decision that revisited the case of Hassan Rasouli.
- **Deference gives way to procedural fairness in PEI decision** – Administrative lawyers and regulators should take note: in *Swart v. College of Physicians and Surgeons of Prince Edward Island* the Prince Edward Island Court of Appeal provided express guidance in the prosecution of complaints against doctors.
- **Supreme Court Clarifies the Test for Constructive Dismissal** – In *Potter v. New Brunswick Legal Aid Services Commission*, 2015 SCC 10, the Supreme Court clarified and reformulated the law on constructive dismissal.

The plaintiff, Potter, was a lawyer employed as Executive Director of the defendant Legal Aid Services Commission. After the relationship between them deteriorated, the Commission placed Potter on an indefinite administrative leave with pay, without providing any reasons for doing so. Potter sued for damages for constructive dismissal – and lost.

However, Potter succeeded at the Supreme Court, with a unanimous result, although split 5-2 on the reasons for it. Wagner J., who wrote the main judgment, held that constructive dismissal of a non-unionized employee occurs if one of the following two branches (or tests) is satisfied:

1. *The employer makes a single unilateral change, thereby breaching an express or implied term of the employment, and this breach substantially alters an essential term of the contract.* For the purposes of the first part of this test, the employee is entitled to rely on matters known to the employer but unknown to the employee at the relevant time. Under the second part of the test, the court must determine whether the change made by the employer is reasonable from the standpoint of a reasonable person in the same circumstances as the employee. At this stage, only those facts which the employee actually knew or could reasonably have foreseen may be considered.
2. *A course of conduct engaged in by the employer, viewed in the light of all of the circumstances, would lead a reasonable person to conclude that the employer no longer intends to be bound by the contract.* Under this test, the employee is not required to point to any specific substantial change to an essential contractual term.

Wagner J. further held that, where an administrative suspension is at issue, the burden is on the employer to establish that the suspension was reasonable and justified.

Potter met the first branch of the test. First, the Commission made a unilateral change constituting breach of the employment contract by suspending him. The Commission failed to meet the basic requirement of good faith by withholding from Potter the reason for the suspension, and,

as such, could not argue that it was acting under an implied contractual authority. The suspension was therefore not justified. Second, it was reasonable in the circumstances for Potter to perceive the unauthorized unilateral suspension to be a substantial change to the contract.

Potter also illustrates the importance of honesty and good faith in an employer's dealings with its employees. It establishes that an employer cannot avoid a finding of constructive dismissal merely by continuing to pay the employee. The suspending employer must ensure that it can show that the suspension has a legitimate business reason.

- **Court of Appeal Rules PHIPA Does Not Oust Common Law Tort of Breach of Privacy** – On an appeal from a Rule 21 motion, the Court of Appeal ruled that the *Personal Health Information Protection Act*, S.O. 2004, c. 3, Sch. A (*PHIPA*) does not create an exhaustive code precluding a civil action for intrusion upon seclusion.
- **Towards a More Workable Approach: Proportionality and Internet Defamation** – As the internet continues to develop into the primary forum for expression in our society, defamation actions increasingly involve comments made online.
- **Liability may lurk in the vitriol of reader comments** – Score one for science, zero for journalistic integrity and a point for an interesting advance in the law of defamation.
- **Nova Scotia Barristers Society without jurisdiction to refuse Trinity Western University grads** – The Nova Scotia Supreme Court ruled late in January that the Nova Scotia Barristers Society ("NSBS") must accredit law degrees granted by Trinity Western University ("TWU") in Langley, British Columbia.
- **Court Certifies Sino-Forest Class Action** – The Sino-Forest class action has been certified, and leave was granted to bring a claim under the *Securities Act* for secondary market misrepresentations.
- **The weight of the corporate veil: It will be lifted with only the strongest tools** – The "corporate veil" is an old and well-established concept. Corporations are separate legal entities under the law and, generally, liability will not flow through the corporation and onto the owners and directors. This is why a corporate bankruptcy doesn't result in a flurry of debt collectors knocking on the door of every shareholder.
- **Relying on an exclusion clause in a contract requires a careful approach** – The Ontario Court of Appeal recently had a chance to consider the law regarding exclusion clauses in the lease context.
- **Ontario Judge Applies Correctness Standard to Condominium Act Arbitrations** – On an appeal from an arbitration under the Condominium Act, in *90 George Street Ltd. v. Ottawa Carleton Standard Condominium Corporation No. 815*, 2015 ONSC 336, Justice Patrick Smith applied a correctness standard of review.
- **Know Thy Client** – The Court of Appeal recently released a decision that serves as a reminder to all counsel: never lose sight of who you act for.
- **Court of Appeal Reaffirms Gatekeeping Function For Potential Experts** – The Court of Appeal has affirmed the robust gatekeeping function to be exercised by trial courts in the admission of expert evidence (*Meady v. Greyhound*, 2015 ONCA 6).

In *Meady*, the plaintiffs sought to introduce expert evidence on the standard of care of a bus driver and police officers following an incident where a mentally ill individual (Mr. Davis) boarded a Greyhound bus and during the journey grabbed the steering wheel, causing the bus to crash into a ditch. One person was killed and numerous others were injured in

the crash.

The plaintiffs sought to use expert evidence to advance the following theories:

1. the bus driver should have slowed down when the passenger approached the driver; and
2. the police officers who interacted with individual should not have allowed him to board the bus.

The trial judge rejected the proposed expert on the standard of care of the bus driver as unnecessary and going to the ultimate issue (i.e., was the bus driver negligent?). The proposed expert on police conduct was also excluded on the basis of necessity.

In upholding the trial judgment, the Court of Appeal noted that while the standard of care applicable to professionals typically requires expert evidence, expert evidence is not required for non-technical matters of which an ordinary person would have knowledge. Matters related to the exercise of police powers of investigation, arrest and detention and police interactions with the public falling short of coercion, were found to be part of the daily diet of judges of the Superior Court.

With respect both the bus driver and police officers, the trial judge did allow evidence on applicable policies and procedures in place at the time. This was treated as fact evidence, and not as opinion evidence going to whether the bus driver or police officers met the standard of care.

The Court of Appeal also stressed the need for deference to a trial judge's exercise of discretion with respect to excluding expert evidence found to be unnecessary.

The Court of Appeal affirmation of the trial judge's discretion is also in line with recent Supreme Court direction to clamp down on unnecessary expert evidence (see *Masterpiece Inc. v. Alavida Lifestyles Inc.*, 2011 SCC 27)

- Research contributed by George White, 2014/2015 Fox Scholar

➤ **Racist Will Thrown Out for Being Contrary to Public Policy** – An Ontario decision has expanded the application of public policy to void a will, and in so doing has raised concerns of floodgates and abuse. In *Spence v. BMO Trust Company*, 2015 ONSC 615, Justice Gilmore determined that the deceased, who was black, disinherited his adult daughter because she had a child with a Caucasian man – "a clearly stated racist principle".

➤ **A lie by any other name?** – In what circumstances is a failure to disclose a breach of the duty of honesty?

A recent decision of the Ontario Superior Court, *Lavrijsen Campgrounds Ltd. v. Reville*, 2015 ONSC 103, provides an occasion to reflect on this issue, arising from the Supreme Court of Canada's ruling in *Bhasin v. Hrynew*, 2014 SCC 71. In *Bhasin*, the Court recognized the "general organizing principle of good faith" in contract law, and held that there is:

➤ **Supreme Court Offers Guidance on Standard of Review and Efficiency Defence Under the Competition Act** – The Supreme Court in *Tervita Corp. v. Canada (Commissioner of Competition)* held that a merger between landfill operators would prevent competition but provide efficiency gains, and allowed the deal to proceed. In so doing, it has provided important guidance three issues:

➤ **No absolute privilege for city councillors' speech** – In its recent decision in *Gutowski v. Clayton*, 2014 ONCA 921, the Ontario Court of Appeal provided helpful advice to two sets of professionals: municipal

councillors and lawyers. First, the Court confirmed for municipal councillors that they do not enjoy absolute privilege for defamatory statements they make during municipal council meetings. Second, the Court signalled to litigators that a Rule 21 motion is not the "appropriate vehicle" through which to attempt to develop an area of law that is not fully settled.

- **Implied Waiver of Solicitor-Client Privilege is Narrow** – The Ontario Superior Court of Justice has reinforced the principle that a persons privileged communications with his or her lawyer should be strictly protected, except in narrow circumstances.
- **Courts pave the way for damages in consumer class actions** – Defendants in consumer class actions should be on notice, following two recent decisions that used consumer protection legislation as a basis to award damages.
- **When are costs awarded for travel disbursements for out-of-town lawyers?** – Its trite law that an unsuccessful litigant generally pays the successful party's costs. But what happens when the winner hires lawyers from out-of-town who had to travel regularly for the case?
- **Ontario Securities Commission Confirms Its Power to Undo Manifestly Unfair Settlements** – The Ontario Securities Commission has vacated a 2007 settlement agreement reached between Marc McQuillen and Regulation Services (now the Investment Industry Regulation Organization of Canada (IIROC))
- **Court of Appeal makes certification of class actions for overtime pay more difficult** – Canadian Courts have been faced in recent years with a number of class actions in which employees allege that their employer improperly misclassified them as ineligible for overtime pay. The Ontario Court of Appeal's recent decision in *Brown v. Canadian Imperial Bank of Commerce* makes it more difficult for such claims to proceed as class actions.
- **When Enough is Enough: Court of Appeal takes hard line on delay** – Lazy litigants beware: not only is your (in)action subject to a dismissal motion under Rule 24 of the *Rules of Civil Procedure*, it is also subject to the court's inherent jurisdiction.
- **Is Paper What Ails the Justice System?** – At least one Superior Court judge seems to think so. In a decision on costs, Justice David Brown made the following comment regarding the claims for photocopying:
- **Ontario Court rebukes litigants for improper reliance on Personal Property Security Act** – Call it what you want: unethical tactics, improper, vexatious, or Organized Pseudolegal Commercial Arguments (OPCA) – the term coined by one Alberta judge – but actions engineered to frustrate the legal rights of governments, corporations and individuals will be rebuked for what they are: a shake down.
- **BC Court Signals Change in Patent Landscape with Viagra Decision** – The British Columbia Supreme Court's decision in *Low v. Pfizer Canada Inc.*, 2014 BCSC 1469 could radically change the legal landscape for patent law in Canada. Patent law has thus far been entirely statutory rather than a product of the common law; courts had not recognized any common law rights or remedies in relation to patents. The decision of Justice Smith changes that, and in so doing changes the risks innovators must consider.

- **The first (tentative) steps toward the application of Sattva in Ontario** – The Supreme Court of Canada's decision in *Sattva Capital Corp. v. Creston Moly Corp.*, 2014 SCC 53 (*Sattva*) appeared to herald a new era of deference to arbitrators: on at least ordinary questions of law, courts are now to review arbitration awards on a reasonableness standard.
- **Relief from campaign finance rules may not be so hard to come by** – Relief from campaign finance rules may not be hard to come by if the wrongdoing was done in good faith. In *Obina v. City of Ottawa*, aspiring city councillor Lilly Obina was granted relief from penalty, despite contravening rules under the *Municipal Elections Act (MEA)* regarding the filing of financial statements for her 2010 campaign.
- **Speak No Evil: Defamation and Unlawful Interference with Economic Relations** – The tort of unlawful interference with economic relations is surprisingly slippery, especially when pleaded alongside defamation.
- **Avoiding A Written Contract No Assurance of Maintaining Flexibility** – Avoiding a written contract is no assurance that parties can maintain maximum flexibility in their dealings. In *S & J Gareri Trucking v. Onyx Corporation*, 2014 ONSC 476, Onyx was successful in a tender with the City of Mississauga (the City) to provide five years of snow removal services. In so doing, Onyx indicated that it would allocate 19 trucks to providing services under the contract.

SELECT NEWS ARTICLES

- **The 2024 Lexpert Directory Recognizes Lenczner Slaght's Litigation Excellence** – Lenczner Slaght's litigators continue to be recognized by their peers as the foremost practitioners in their fields.
- **Chambers Global Recognizes Lenczner Slaght for the 22nd Consecutive Year** – Canada's leading litigation firm and its expert litigators are increasingly recognized in the latest edition of world-renowned directory, Chambers Global.
- **Lenczner Slaght Remains at the Centre of the Lexpert Bull's Eye** – The 2024 Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada recognizes Lenczner Slaght as the #1 firm in Toronto for Litigation and Commercial Litigation for the 23rd consecutive year.
- **Top 10 Business Decisions of 2022–2023** – Peter Griffin, Rebecca Jones, and Scott Rollwagen were featured in Lexpert's Top 10 Business Decisions of 2022-23 for their success in the case *Annapolis Group Inc v Halifax Regional Municipality*, which represents an important decision that clarified the test for constructive taking. Rebecca Jones was further interviewed.
- **Ontario CA Defers to Lower Court in Case With Awkwardly Written Commercial Contract** – Interviewed by Law Times, Eli Lederman shared his expert insights on the Ontario Court of Appeal's decision in *Obolus Ltd v International Seniors Community Care Inc*. The important contract law decision involves an awkwardly written contract with a missing "to", which the court chose to defer to the lower court instead of addressing an error in fact-finding.
- **Chambers Canada Recognizes Lenczner Slaght as a Top-Tier Litigation Firm** – Canada's leading litigation firm and its expert litigators continue to be recognized by world-renowned directory, Chambers & Partners.
- **Ruling Reinforces Contract Formation Principles During COVID-19 Pandemic** – Canadian Lawyer Magazine interviewed Brendan F. Morrison

and Kate Costin on their recent trial success, which involved one of the world's largest lithium mining projects and has reinforced the principles of contract formation in the modern world.

➤ **Lenczner Slaght Litigators Recognized as Best Lawyers in Canada** – In the latest edition of *Best Lawyers in Canada*, 41 of our expert litigators are recognized for their expertise across 24 practice areas. The following lawyers have also been recognized as “Lawyer of the Year” for receiving the highest overall peer-feedback in their practice areas in Toronto.

➤ **Ontario Court Enforces US\$18.7 Million Contract to Purchase Royalty Interest in Mine** – Interviewed by Law360 Canada, Brendan F. Morrison and Kate Costin comment on their trial success for Lithium Royalty Corporation, which has significant commercial implications for securities markets and the growing North American lithium industry.

➤ **Lenczner Slaght’s Trial Lawyers Successful in Enforcing Significant Lithium Contract** – In a significant trial decision released yesterday in *Lithium Royalty Corporation v Orion Resource Partners*, our expert litigators were successful in delivering a highly beneficial commercial outcome for our client, with the judgment enforcing a contract for the acquisition of an 85% interest in a Nevada lithium royalty for US\$18.7 million. The decision reinforces the principles of contract formation as they are applied to the modern world, and has significant commercial implications for securities markets, specifically in the lithium industry that has increasing importance in the North American economy.

Brendan F. Morrison and Kate Costin were counsel to Lithium Royalty Corp. (“LRC”), an Ontario-based publicly-traded company dedicated to investing in revenue royalties in lithium projects. The case concerned negotiations between LRC and Orion Resource Partners to purchase 85% of the royalty interest in the Thacker Pass lithium project for US\$18.7 million. A trial was convened in December 2022.

On August 15, 2023, the Ontario Superior Court of Justice released its decision finding that the parties had reached a binding and enforceable contract for the purchase and sale of the royalty. The trial judge agreed that, despite the rapidity of the transaction and the absence of a signed term sheet, the parties had reached agreement on all the essential terms of the deal through a series of phone calls, emails, and videoconferences.

The decision also highlights the fact-driven nature of many commercial cases and the impact that effective cross-examination has on credibility assessments that are ultimately critical to trial outcomes.

➤ **Wronged Party Must Prove Damages in Contract Breach: OCA** – Interviewed by Law Times, Eli S. Lederman shared his expert insights on the Ontario Court of Appeal's decision in *Bhatnagar v Cresco Labs Inc.*

➤ **Lenczner Slaght’s Litigation Excellence Recognized in 2023 Lexpert Directory** – Following comprehensive peer review surveys and interviews with senior members in the legal profession, the 2023 *Canadian Legal Lexpert Directory* has recognized 31 of the firm’s expert litigators for their experience, knowledge, and precision, with 108 rankings spanning 17 practice areas.

➤ **Chambers Global Recognizes Lenczner Slaght for the 21st Consecutive Year** – Canada’s leading litigation firm continues to be recognized for its dispute resolution expertise by world-renowned directory, Chambers Global, alongside notable full-service, national, and international firms.

➤ **Lenczner Slaght’s 22nd Year at the Centre of the Lexpert Bull’s Eye** – The 2023 Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada continues to recognize Lenczner Slaght as the #1

firm in Toronto for Litigation and Commercial Litigation.

- **Lenczner Slaght Recognized Among Canada's Leading Litigation Lawyers** – Following an in-depth peer review process, the 2022 Lexpert Special Edition: Canada's Leading Litigation Lawyers guide recognizes 15 Lenczner Slaght lawyers for their extensive courtroom experience and subject-matter expertise. We know courts, and courts know and trust us. That is why clients turn to us to solve their most complex legal problems.
- **Lenczner Slaght Stands Out as a "Litigation Powerhouse" in Legal 500 Canada** – Canada's leading litigation firm is once again ranked in Tier 1 for Dispute Resolution by *Legal 500 Canada*.
- **Lenczner Slaght Ranked Band 1 in Chambers Canada for 5th Consecutive Year** – Canada's leading litigation firm and its expert litigators continue to be recognized in the latest edition of world-renowned directory, Chambers & Partners.
- **Lenczner Slaght Litigators Recognized Among the Best Lawyers in Canada** – In the latest edition of *Best Lawyers in Canada*, 39 of our expert litigators are recognized by their peers for their expertise across 24 practice areas.
- **Lenczner Slaght Recognized for Litigation Excellence at Canadian Law Awards** – Following extensive research and assessment by industry leaders across Canada, this year's Canadian Law Awards honoured Lenczner Slaght litigators for their excellence in advocacy.
- **Settlement Reached in Reichmann Litigation** – Abraham Reichmann is very pleased to announce that he has reached a private and confidential settlement of the *Reichmann v Reichmann et al* lawsuit in the Ontario Superior Court of Justice concerning Ralph and Ada Reichmann.
- **The 2022 Lexpert Directory Recognizes Lenczner Slaght's Litigation Excellence** – 31 of our expert litigators are recognized by their peers as the foremost practitioners across 18 fields.
- **Lenczner Slaght Ranked for the 20th Consecutive Year in Chambers Global** – Canada's leading litigation firm continues to be recognized for its dispute resolution expertise by world-renowned directory, Chambers Global, alongside notable full-service, national, and international firms.
- **Where There's Fire, There's Smoke (and Negligence)** – In *Burr v Tecumseh*, our expert litigators successfully defended, at trial, against claims of negligence against the manufacturer of a component part in an end use appliance which caused a house fire.
- **Lenczner Slaght's 21st Year at the Centre of the Lexpert Bull's Eye** – Lenczner Slaght continues to be recognized as the #1 firm in Toronto for Litigation and Commercial Litigation by the 2022 Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada.
- **Canadian Decision Offers Roadmap on M&A Obligations During a Pandemic** – In a law.com article, Eli S. Lederman and Brian Kolenda share their expert insights on the decision in *Cineplex v Cineworld*, which will provide clarification on where else in contracts the pandemic would impact contractual obligations.
- **Cineplex Awarded More Than \$1.23 Billion in Damages Over Failed Cineworld Acquisition** – Canadian Lawyer Magazine spoke to Eli S. Lederman on *Cineplex v Cineworld*, a significant Canadian court decision concerning #COVID19 business disruptions.
- **Lexpert Recognizes Lenczner Slaght's Litigation Expertise** – Following an in-depth peer review process, the 2021 Lexpert Special Edition: Canada's Leading Litigation Lawyers guide recognizes 19 Lenczner Slaght lawyers for their extensive courtroom experience and

subject-matter expertise.

- **Legal 500 Highlights Lenczner Slaght's Litigation Dominance** – Legal 500 recognizes Canada's leading litigation firm as "a regular fixture in the country's ground-breaking contentious cases".
- **Lenczner Slaght Litigators Appointed to The Advocates' Society's Leadership** – We are pleased to announce that Brian Kolenda, Andrew Parley, Shara Roy, Nina Bombier, Larry Thacker and Anne Posno have been elected to prominent leadership positions at The Advocates' Society, a preeminent organization dedicated to promoting effective advocacy and access to justice.
- **Chambers Canada Recognizes Lenczner Slaght's Litigation Excellence** – Canada's leading litigation firm and its expert litigators continue to advance their position in the latest edition of world-renowned directory, Chambers & Partners.
- **Benchmark Canada Recognizes Lenczner Slaght as a "Powerhouse"** – Canada's leading litigation firm continues to be recognized with the top tier ranking of "Highly Recommended in Ontario" for its Dispute Resolution practice.
- **The 2021 Lexpert Directory Recognizes 30 Lenczner Slaght Lawyers** – An increasing number of our expert litigators are recognized by their peers as the foremost practitioners in their fields.
- **Lenczner Slaght Ranked for the 19th Consecutive Year in Chambers Global** – Canada's leading litigation firm is once again recognized for its dispute resolution expertise by world-renowned directory, Chambers Global, alongside notable full-service, national, and international firms.
- **Lenczner Slaght Achieves 20 Years at the Centre of the Lexpert Bull's-Eye** – The 2021 Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada continues to recognize Lenczner Slaght as the #1 firm in Toronto for Litigation and Commercial Litigation.
- **Law firms adopting AI** – In the CBA National Magazine article titled "*Law firms adopting AI*", Sarah Millar comments on how our firm is embracing AI in order to offer clients cost-effective solutions to their legal issues.
- **Lexpert Recognizes Lenczner Slaght Lawyers for Litigation Excellence** – An increasing number of our expert litigators continue to be recognized as the foremost litigators in their fields by peers and senior members of the legal profession.
- **Legal 500 Recognizes Lenczner Slaght's Top-Tier Litigation Expertise** – Canada's leading litigation firm is "recognized across the country as a force in complex disputes" according to Legal 500.
- **Who's Who Legal: Canada 2020 Recognizes Lenczner Slaght's Expert Litigators** – In the latest edition of *Who's Who Legal: Canada*, Lenczner Slaght achieves eight recognitions in the Litigation chapter, with a total of ten expert litigators ranked.
- **Canadian Law Awards Celebrates Lenczner Slaght's Excellence in the Legal Profession** – Following extensive research and assessment by industry leaders across Canada, the inaugural Canadian Law Awards recognized Lenczner Slaght in two categories.
- **Lenczner Slaght Recognized as a Top-Tier Litigation Firm by Chambers Canada** – Canada's leading litigation firm and its expert litigators continue to be recognized by world-renowned directory, Chambers & Partners.
- **Best Lawyers in Canada Recognizes Lenczner Slaght's Litigation Expertise** – Lenczner Slaght is proud to announce that 33 of our expert

litigators are recognized in *Best Lawyers in Canada 2021*. Our lawyers received a total of 128 rankings, up from 100 in 2020.

- **Lexpert Highlights Lenczner Slaght's Professional Excellence –** Lenczner Slaght's litigators continue to be recognized by their peers as the foremost practitioners in their fields.
- **Chambers Global Recognizes Lenczner Slaght for the 18th Consecutive Year –** Canada's leading litigation firm continues to be recognized for its dispute resolution expertise by world-renowned directory, Chambers Global, alongside notable full-service, national, and international firms.
- **Lenczner Slaght's Expert Litigators Ranked in Who's Who Legal: Canada 2019 –** Canada's leading litigation firm continues to be recognized for its exceptional litigation expertise.
- **Lenczner Slaght's 19th Year at the Centre of the Lexpert Bull's-Eye –** Canada's leading litigation firm continues to be recognized as the #1 firm in Toronto for Litigation and Commercial Litigation by the 2020 Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada.
- **Lenczner Slaght Welcomes Vinayak Mishra –** Exceptional associates continue to choose Canada's leading litigation firm, strengthening the firm's talent pool, knowledge, and experience.
- **Chambers Canada Recognizes Lenczner Slaght as a Top-Tier Litigation Firm –** Canada's leading litigation firm and its expert litigators continue to advance their position in the latest edition of world-renowned directory, Chambers Canada, with nine new rankings.
- **Best Lawyers in Canada Recognizes Lenczner Slaght with 100 Rankings –** In the latest edition of *Best Lawyers in Canada*, 28 Lenczner Slaght lawyers earned a total of 100 rankings, up from 86 in 2019.
- **Lenczner Slaght launches centralized website for commercial list –** Monique Jilesen was interviewed for the Law Times' recent article "*Lenczner Slaght launches centralized website for commercial list*" on June 21, 2019. In this article, Monique discusses the drive behind the launch of commercialist.com.
- **Lenczner Slaght Launches Commercial List Website! –** Commercialist.com is your one-stop shop for all things Commercial List.
- **Tom Curry to Receive Prestigious Law Society Medal –** Canada's leading litigation firm is proud to announce that our Managing Partner, Tom Curry, will be recognized for his exceptional career achievement and exemplary contribution to the profession at the annual Law Society Awards ceremony on May 22, 2019, at Osgoode Hall.
- **Lenczner Slaght Named Firm of the Year in Medical Defense/Health –** Canada's leading litigation firm is proud to announce that we have been singled out for our Medical Defense and Health Law expertise at last week's 2019 Benchmark Canada Awards.
- **Who's Who Legal Recognizes Lenczner Slaght's Litigation Dominance –** Eight Lenczner Slaght lawyers are recognized globally for their superb litigation expertise.
- **Lenczner Slaght Litigators Ranked in Best Lawyers in Canada –** Canada's leading litigation firm is proud to announce that 25 of the firm's 58 lawyers have been recognized in the *Best Lawyers in Canada 2019* publication across multiple categories.
- **Lexpert's Big Suits: Rutman v. Rabinowitz –** *Rutman v. Rabinowitz* featured in the 2018 summer issue of Lexpert Magazine as one of the Top Big Suits of 2018. In this particular litigation of significance,

Lenczner Slaght's Matthew Sammon and Jessica Roher were counsel to the respondent, Ronald Rutman.

- **Lenczner Slaght Welcomes Jessica Starck** – Lenczner Slaght strengthens its legal research expertise with the addition of another talented associate.
- **Lexpert Highlights Lenczner Slaght's Cross-border Expertise** – Nine partners from Canada's leading litigation firm are ranked as leading the way in cross-border practice excellence.
- **Lexpert Honours Monique Jilesen's Excellence in Litigation** – Lenczner Slaght is proud to announce Monique Jilesen has won the 2018 Lexpert Zenith Award for Mid-Career Excellence in the Corporate Commercial Litigation category.
- **Lexpert Recognizes Lenczner Slaght's Professional Excellence** – An increasing number of the firm's lawyers have been ranked by their peers as leading practitioners in their field.
- **Lenczner Slaght Ranked for the 16th Consecutive Year in Chambers Global 2018** – Canada's leading litigation firm is once again recognized in the area of Dispute Resolution by this world-renowned directory alongside notable full-service, national and international firms.
- **Top 10 Business Decisions of 2017** – *Google v. Equustek Solutions, 2017 SCC 34* is ranked second in Lexpert's Top 10 Business Decisions of 2017. Lenczner Slaght's William C. McDowell and Scott Rollwagen are mentioned as counsel to Google Inc.
- **Cleveland Baseball Team Discontinues Chief Wahoo Logo** – Following a year and a half of ongoing litigation on this matter, Lenczner Slaght and Douglas Cardinal are delighted by the decision of Major League Baseball and the Cleveland baseball team to discontinue the discriminatory Chief Wahoo logo on the Cleveland uniforms beginning in 2019.
- **Lenczner Slaght's 17th Year at the Centre of the Lexpert Bull's-Eye** – Lenczner Slaght is once again recognized as the #1 firm in Toronto for Litigation and Commercial Litigation by the *2018 Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada*.
- **Lenczner Slaght Litigators Lead in the 2018 Lexpert/ALM 500 Rankings** – Canada's leading litigation firm is one of two firms with the highest number of lawyers ranked in Corporate Commercial Litigation in the 2018 Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada.
- **The Fight Against Cleveland's Baseball Team Name and Logo in Ontario Continues** – World-renowned Canadian activist for Indigenous Peoples, Douglas Cardinal, is continuing the fight against the Cleveland's baseball team's name and logo.
- **Lenczner Slaght is Named a Top-Tier Firm in Legal 500 Rankings** – Along with the firm's Tier 1 ranking in Dispute Resolution with four leading lawyers and one next generation lawyer recognized, Lenczner Slaght is also ranked in Intellectual Property, Labour and Employment, and Competition and Antitrust.
- **Lexpert's Big Suits: Essar Steel Algoma Inc. et al (Re), 2017** – *Essar Steel Algoma Inc. et al (Re), 2017* featured in the 2017 issue of Lexpert/ROB Special Edition: Canada's Leading Litigation Lawyers as one of the Top 5 Big Suits of 2017. In this particular litigation of significance, Lenczner Slaght's Peter Griffin, Monique Jilesen, and Matthew B. Lerner represented GIP Primus LP and Brightwood Loan Services LLC.
- **Words and Intentions** – Eli S. Lederman is quoted in the 2017

Lexpert/ROB Special Edition: Canada's Leading Litigation Lawyers article *Words and Intentions* where he provides his expert opinion on recent and notable court decisions regarding contractual interpretation — particularly the 2014 SCC ruling in *Bhasin v. Hrynew*.

- **Top 10 Decisions with Cross-Border Impact** – *Goldhar v Ha'aretz* is named in Lexpert's Top 10 Decisions with Cross-Border Impact as one of the cases with important implications in the United States. Lenczner Slaght's William C. McDowell and Brian Kolenda are mentioned as counsel to the plaintiff, Mitchell Goldhar. Will is also quoted in the article.
- **Who's Who Legal: Canada 2017 Highlights Lenczner Slaght Litigators** – Lenczner Slaght is proud to be named as “the foremost litigation team in the country” by Who's Who Legal: Canada 2017, with six of our expert litigators recognized for their exceptional work representing clients.
- **OBA Celebrates the Extraordinary Career of Peter Griffin** – Peter Griffin was mentioned in the Ontario Bar Association article *OBA Celebrates the Extraordinary Career of Peter Griffin* that details why he was awarded the prestigious 2017 Award of Excellence in Civil Litigation.
- **Lenczner Slaght Recognized in Chambers Canada 2018** – Canada's leading litigation firm and its expert lawyers are ranked once again by Chambers & Partners for their exceptional litigation work.
- **Litigation 2017: Trends & Conclusions** – Who's Who Legal's cover story *Litigation 2017: Trends & Conclusions* names Lenczner Slaght and Quinn Emanuel Urquhart & Sullivan as the two law firms that “make up a weighty North American contingent” in litigation. In this evaluation of the legal landscape, Lenczner Slaght is the only Canadian litigation firm mentioned.
- **Lenczner Slaght Ranked Among the Best** – Almost half of the leading litigation firm's lawyers are recognized in the *Best Lawyers in Canada*.
- **Christopher Yung Joins Lenczner Slaght** – Talented lawyers continue to choose Canada's leading litigation firm.
- **Lenczner Slaght Shines in 2017 Lexpert Rankings** – Lenczner Slaght's litigators continue to be recognized by their peers as leading practitioners in their fields according to the 2017 Canadian Legal Lexpert Directory.
- **Jonathan Chen Joins Lenczner Slaght** – Canada's leading litigation firm continues to attract top talent.
- **Lenczner Slaght is the Unrivaled Litigation Boutique in Chambers Global 2017** – The firm's litigators earned the top rankings alongside full-service, national and international counterparts in the litigation categories.
- **Lenczner Slaght lawyers recognized in Lexpert ALM 500 Guide** – Canada's leading litigation boutique leads all firms with 10 lawyers ranked in litigation practice areas in the 2017 Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada (“ALM 500”)
- **Third-party litigation funding** – Monique Jilesen was quoted in the Canadian Lawyer article *Third-party litigation funding* on January 3, 2017.
- **Atos Inc v Sapient Canada Inc** – Ontario Superior Court of Justice awards \$5.5 million to Atos Inc following successful trial
- **Keeping it Affordable** – Monique Jilesen is quoted in the Lexpert / Report on Business article *Keeping it Affordable* from November 25, 2016.
- **Peers Recognize Lenczner Slaght's Expertise in Cross-border Litigation** – Fifteen Lenczner Slaght lawyers have been ranked in the Lexpert 2016 Guide to the Leading U.S./Canada Cross-Border Litigation

Lawyers in Canada

- **Ontario Court of Appeal allows 407 ETR's appeal in 407 ETR Concession Company Limited v. Ira Day** – Tom Curry and Rebecca Jones of Lenczner Slaght acted as counsel for 407 ETR before the Court of Appeal for Ontario in a case concerning the limitation period applicable to 407 ETR debts.
- **Lenczner Slaght Lawyers Ranked Best** – Nearly half of the firm's lawyers recognized among Canada's foremost practitioners
- **23 Lenczner Slaght Lawyers Ranked in 2016 Lexpert Directory** – This year, the Canadian Legal Lexpert® Directory increased the number of Lenczner Slaght lawyers ranked among the best in Canada to 23, up from 20 in 2015.
- **York University Succeeds in Fraud Claim Against Former Executive** – Following a lengthy trial, the Ontario Superior Court of Justice has determined that former York employees played key roles in several significant frauds.
- **Lenczner Slaght Remains Among Top in Chambers Global Rankings** – Canada's leading litigation practice recognized in tier one for 14 consecutive years.
- **Lenczner Slaght Scores Bull's Eye in Leading 500 Lawyers in Canada** – Canada's leading litigation practice once again tops the list of litigation firms in the 2016 Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada.
- **Three Lenczner Slaght cases featured in Lexpert's Top 10 Business Decisions of 2015** – Canada's leading litigation practice acted as counsel on the top case in Lexpert's annual ranking
- **Lenczner Slaght Leads in Cross-Border Litigation** – Recognition of Lenczner Slaght lawyers as Canada's Leading Cross-Border Litigators Endures
- **Curry sees "very dramatic shift" in handling of paramountcy law** – Tom Curry and Andrew Parley were quoted in The Lawyers Weekly on November 27, 2015.
- **Lenczner Slaght Recognized by Who's Who Legal 2015** – *Seven lawyers singled out by peers as leading practitioners in their field.*
- **Lenczner Slaght Lawyers Repeatedly Ranked Among the Best** – Half of the firm's lawyers are ranked as leading practitioners and three named "Lawyer of the Year" in the latest Best Lawyers in Canada Directory.
- **Recognized as Leading Litigation Lawyers** – Lenczner Slaght lawyers recognized for litigation in *2015 Who's Who Legal*.
- **Decision suggests greater freedom for trial judges in contract law cases** – Eli Lederman was quoted in Canadian Lawyer InHouse on July 20, 2015 regarding the decision in Energy Fundamentals Group Inc. v. Veresen Inc., 2015 ONCA 514, a significant case concerning the implication of contractual terms.
- **Province vowing to fix laws governing towns, cities** – Paul-Erik Veel was quoted in the Toronto Star on July 19, 2015 on the complaints about the contradictions in the provincial laws that govern towns and cities.
- **20 Lenczner Slaght Lawyers Recognized in 2015 Lexpert Directory** – Recognized by Canadian Legal Lexpert® Directory as leading practitioners.

- **Unique harm needed to pursue oppression claim** – Monique Jilesen was quoted in Canadian Lawyer on May 27, 2015 regarding the recent Court of Appeal decision in *Rea v. Wildeboer*.
- **Did the Supreme Court clarify or muddy the duty of good faith?** – Eli Lederman was quoted in the May, 2015 issue of Lexpert Magazine in relation to his involvement and his insight into the decision in *Bhasin v. Hrynew et al.*
- **Lessons from the Nortel case** – Monique Jilesen was quoted in the May 18, 2015 issue of Law Times regarding the decision in *Nortel Networks Corporation (Re)*, 2015 ONSC 2987.
- **Peter Griffin retained to act as a Facilitator in review of the First Nations Cigarette Allocation System** – The Ministry of Finance of Ontario has retained two independent expert facilitators to lead the formal review.
- **Lenczner Slaght Repeatedly Tops Chambers Global Ranking** – Canada's leading litigation practice remains highly regarded for 13 consecutive years.
- **Lenczner Slaght - "a fortress inhabited by litigation royalty"** – 13 Lenczner Slaght lawyers recognized in the 2015 Benchmark Litigation Directory.
- **Court struggles with 'victimology' issues** – Tom Curry was quoted in the March 27, 2015 issue of the Lawyers Weekly on the recent British Columbia Court of Appeal decision in *R. v. Orr* involving issues of expert evidence.
- **Spillover into Canada** – Alan J. Lenczner and Brendan Morrison were featured in the Fall/Winter issue of the University of Toronto's UTLaw Alumni Magazine regarding the *Yaiguaje et al. v. Chevron Corporation et al.* case.
- **Lenczner Slaght Lawyers Serve As Jessup Moot Judges** – Canadian Rounds of the Philip C. Jessup International Law Moot Court Taking Place in Halifax.
- **Move towards online dispute resolution gathers steam** – Monique Jilesen was quoted in Law Times on whether online courts and dispute resolution are in Ontario's future and what that would mean to lawyers.
- **Ontario court nullifies minister's will for racism after he cuts out daughter** – Anne Posno was quoted in the Lawyers Weekly on February 27, 2015 in relation to a recent Ontario Superior Court decision in *Spence v. BMO Trust Company*, 2015 ONSC which deals with expanding application of public policy to void a will, and in so doing has raised concerns of floodgates and abuse.
- **Lexpert Big Suits: Bhasin v. Hrynew et al.** – Eli Lederman, Jon Laxer and Constanza Pauchulo appellant counsel to Heritage Education Funds Inc. and Larry Hrynew in *Bhasin v. Hrynew et al.* were mentioned in Lexpert Magazine's February 2015 issue.
- **SCC clarifies merger review requirements** – Tom Curry was quoted in the Lawyers Weekly on February 6, 2015 in relation to the Supreme Court of Canada decision in *Tervita Corp. v. Canada (Commissioner of Competition)*.
- **Alan Lenczner re-appointed for a second two-year term as a commissioner of the Ontario Securities Commission** – As of February 1, 2015, Alan J. Lenczner, Q.C. was re-appointed commissioner of the Ontario Securities Commission. For further information, see the Financial Post or the Ontario Securities Commission.
- **Divisional Court Dismisses Groia Appeal** – Tom Curry, Jaan Lilles

and Andrew Porter acted as counsel for the Law Society of Upper Canada.

- **Lenczner Slaght Congratulates Three New Partners** – Canada's leading litigation practice increases to 23 partners.
- **Supreme Court says mergers can't block future competition** – Tom Curry was quoted in the Financial Post on January 23, 2015 in regards to the Supreme Court of Canada ruling in *Tervita Corp. v. Canada (Commissioner of Competition)*.
- **Supreme Court allows blocked merger in landfill case** – Scott Rollwagen was quoted in the Canadian Lawyer in regards to the Supreme Court of Canada ruling in *Tervita Corp. v. Canada (Commissioner of Competition)*.
- **Colleagues defend Bre-X lawyer in Law Society fight** – Tom Curry and Jaan Lilles were quoted in the Toronto Star on January 9, 2015.
- **Lenczner Slaght Remains at the Centre of the Lexpert Bull's-Eye** – Canada's leading litigation practice is once again ranked #1 in The 2015 Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada.
- **Premier practice comprised of Toronto's premier litigators** – Legal 500 Canada recommends Lenczner Slaght in Dispute Resolution, Intellectual Property, Labour and Employment Law.
- **A Leader in Cross-Border Litigation** – 14 Lenczner Slaght litigators ranked in Lexpert 2014 Guide to the Leading U.S./Canada Cross-Border Litigation Lawyers in Canada.
- **Recognized as Canada's Leading Litigators** – Lenczner Slaght Lawyers listed in the year-end Lexpert Special Edition published in conjunction with Report on Business magazine.
- **Contract law blockbuster leaves counsel with lingering questions - 'Good faith' duty will spur litigation, lawyers predict** – Eli Lederman was quoted in the Lawyers Weekly on November 28, 2014 in relation to his involvement in *Bhasin v. Hrynew et al.*
- **Jim Armitage: Barclays and Montreal pension-fund fiasco** – Tom Curry was quoted in The Independent on November 13, 2014 on *Barclays Bank v. Metcalfe & Mansfield (Devonshire Trust)*.
- **SCC establishes duty of honesty between contracting parties** – Eli Lederman was quoted in the Canadian Lawyer, Legal Feeds Blog on November 13, 2014 in relation to his involvement in *Bhasin v. Hrynew et al.*
- **Supreme Court of Canada imposes general duty of good faith in contract performance** – Eli Lederman, Jon Laxer and Constanza Pauchulo were mentioned in the Financial Post on November 13, 2014 in relation to their involvement in a leading Supreme Court of Canada case on good faith in contracts (*Bhasin v. Hrynew et al.*)
- **Lenczner Slaght Welcomes Four New Associates** – Canada's leading litigation practice grows to 53 lawyers.
- **Art of the Case: How the Chatr Wireless case avoided incivility despite the high stakes** – Tom Curry, Jaan Lilles and Paul-Erik Veel were quoted in the September, 2014 issue of Lexpert Magazine in relation to *Commissioner of Competition v. Rogers Communications Inc. et al.*
- **How will Fulawka affect overtime cases?** – Monique Jilesen was quoted in the September 1, 2014 issue of Law Times regarding overtime cases in Ontario.
- **Judge offers guidance on a 'troublesome area of practice'** – Nina Bombier was quoted in the September 1, 2014 issue of Law Times on

handling delays in compliance with undertakings.

- **Lawyer targets Chevron assets for Ecuadorian plaintiffs** – Alan J. Lenczner, Q.C. was quoted in the August, 2014 issue of EcoAmericas Magazine regarding Yaiguaje et al. v. Chevron Corporation et al.
- **23 Lenczner Slaght Lawyers Ranked Among the Best** – Nearly half of the firm's 49 lawyers are ranked as leading practitioners and two named "Lawyer of the Year" in the latest Best Lawyers in Canada Directory.
- **Lexpert Magazine - Big Deals - Union Carbide v. Bombardier Inc.** – William McDowell, Jon Laxer and Katie Petney, counsel to the intervenor in *Union Carbide v. Bombardier Inc.* were mentioned in Lexpert Magazine's July 2014 issue.
- **Another Lenczner Slaght Lawyer Named Top 25 Most Influential** – Peter Griffin recognized as one of Canada's Most Influential Lawyers in corporate-commercial law.
- **Criminal decisions on privacy rights could affect civil cases** – Monique Jilesen was quoted in the August 4, 2014 issue of Law Times on privacy interests of Internet subscribers.
- **Lenczner Slaght Lawyers Recognized in Litigation** – Six of the firm's lawyers are ranked in *Who's Who Legal: Litigation 2014*.
- **Court balks at blending actions** – Alan J. Lenczner, Q.C. was quoted in the July 25, 2014 issue of the Lawyers Weekly published by LexisNexis Canada Inc.
- **Lenczner Slaght Increases Rankings in 2014 Lexpert Directory** – Canada's leading litigation practice continues to add new names to the list.
- **Supreme Court will not cloak all settlement talks in secrecy** – William C. McDowell was quoted in the May 23 issue of the Lawyers Weekly published by LexisNexis Canada Inc.
- **Lenczner Slaght Tops Chambers Global Ranking** – Canada's leading litigation practice remains in Band 1 for 12th consecutive year.
- **Lenczner Slaght Welcomes Two New Partners** – Canada's leading litigation practice grows to 20 partners with newest additions.
- **Lenczner Slaght is at the Centre of the Lexpert Bull's-Eye** – Canada's leading litigation practice is once again ranked #1 in *The 2014 Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada*.
- **Lenczner Slaght Welcomes Three New Associates** – Canada's leading litigation practice grows to 52 lawyers with newest additions.
- **High-profile partners join Lenczner Slaght** – Canada's leading litigation practice gains two new widely admired lawyers.
- **Lenczner Slaght in Top Tier and 11 Lawyers Ranked as Stars** – Canada's leading litigation practice also wins two national impact cases.
- **Ecuadorans look to Ontario court for damages against Chevron** – Alan Lenczner appears in Court for an order recognizing an Ecuadorian \$18.3 billion (U.S.) judgment against Chevron Corporation.
- **Ontario should recognize Ecuadorean ruling against Chevron: lawyer** – Alan J. Lenczner, Q.C. acts for villagers from Ecuador's rainforest which filed a lawsuit in Canada against Chevron to compel the company to comply with an \$18.3 billion (U.S.) court judgment obtained in Ecuador for oil pollution in the Amazon.
- **Ecuador Chevron Claim** – Alan J. Lenczner, Q.C. acts for villagers from Ecuador's rainforest which filed a lawsuit in Canada against Chevron as the first step in compelling the company to comply with an \$18 billion

court judgment. Listen to the interview of Alan J. Lenczner, Q.C. on the CBC Radio Show "As It Happens."

- **Move against Chevron in Canada first of many: Ecuadorean plaintiffs** – Alan J. Lenczner, Q.C. acts for villagers from Ecuador's rainforest which filed a lawsuit in Canada against Chevron as the first step in compelling the company to comply with an \$18 billion court judgment.
- **Lenczner Slaght Lawyers Win Top Peer Ratings** – Recognized by Canadian Legal Lexpert Directory as leading practitioners.
- **Former Canadian Supreme Court Justice Joins Toronto Litigation Boutique** – Peter Griffin and Ian Binnie, K.C. speak to American Lawyer Magazine about the former Justice's return to the practice of law. The article appeared in the April 13, 2012 edition.
- **The former Supreme Court justice reflects on his career** – Ian Binnie, K.C. joins Evan Solomon on CBC's Power and Politics to reflect on his career.
- **The Supreme Court's retired, but hardly retiring, Ian Binnie, Q.C.** – Ian Binnie, K.C. talks to the Globe and Mail about returning to the practice of law and the shifting legal landscape. The article appears in the April 11, 2012 edition of Report on Business.
- **Canadian Lawyer's Top 10 Litigation Boutiques** – Lenczner Slaght included in the list of Canadian Lawyer's Top 10 Litigation Boutiques. As found by a survey completed by Canadian Lawyer Magazine.
- **Lenczner Slaght Achieves Top Ranking** – Lenczner Slaght in the top band of Canadian litigation practices.
- **Ruling on bank speaks to contract honesty** – Tom Curry, Monique Jilesen and Brendan Gray, counsel to Devonshire Trust, successfully defended against a \$1.2 billion claim by Barclays Bank PLC.
- **Barclays loses legal battle over ABCP** – Tom Curry, Monique Jilesen and Brendan Gray, counsel to Devonshire Trust, successfully defended against a \$1.2 billion claim by Barclays Bank PLC.
- **Pollution Case Under Appeal: Port Colborne Action First to Go all the Way to Trial** – Alan J. Lenczner, Q.C. appeals first environmental class action trial decision, read article from the Financial Post.
- **Potential impact of new summary judgment rule** – Glenn Smith quoted in the Ottawa Citizen on potential impact of new summary judgment rule.
- **Campbell says referee 'couldn't cut it' in NHL** – Tom Curry represents former NHL referee in his battle for reinstatement.
- **Appeal filed in frostbite lawsuit** – Peter Griffin retained to appeal denial of \$15-million award for personal injury.
- **Residents aim to win 'lottery': Inco, Pioneering suit** – Alan J. Lenczner, Q.C. heads defence team against \$400-million class action lawsuit.
- **The Trouble with Ponzi class actions** – Glenn Smith is quoted in the Financial Post regarding class actions as a means to recover lost money.
- **Managing risk to limit exposure** – While companies might not be able to prevent class action litigation, Ronald G. Slaght, Q.C. encourages a proactive approach to minimize liability.
- **Rebel with a Cause** – Alan J. Lenczner, Q.C. is profiled in this Lexpert article, which profiles lawyers who take on serious-cause litigation.
- **Talking the Best Solution: Injunction Case: Neutral lawyers gives advice to judge** – Will McDowell, amicus curiae, advises talking the best

solution in injunction case against native protestors.

- **Ronald G. Slaght, Q.C. quoted in the Financial Post on recalls and product liability claims**