



#### Education

Osgoode Hall Law School (2011) JD  
 McGill University (2008) MA (History)  
 McGill University (2007) BA  
 (Honours - History)

#### Bar Admissions

Ontario (2012)

#### Practice Areas

Appeals  
 Class Actions  
 Commercial Litigation  
 Employment  
 Injunctions  
 Professional Liability and Regulation  
 Public Law

#### Contact

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# Andrew Porter

#### ANDREW PORTER

is a partner at Lenczner Slaght.

Andrew's trial and appellate practice encompasses a wide range of litigation matters, including commercial litigation, professional liability, regulatory, and other public law matters. His clients regularly include corporations, shareholders, professionals, professional regulators, and other institutions. His advice and representation has proven effective both inside and outside the courtroom.

Andrew's clients have relied on him in medical negligence actions, contentious shareholder and contractual disputes, numerous injunctions motions, in the prosecution of complex fraud matters, and in the defence of several class actions.

Andrew has appeared in the Supreme Court of Canada, at all levels of court and numerous administrative tribunals in Ontario, and in the British Columbia and Nova Scotia Courts of Appeal. He is an Adjunct Faculty member at Osgoode Hall Law School, and a co-leader of the firm's pro bono program.

#### RECOGNITION

- Best Lawyers in Canada (2020-2024)  
 Corporate & Commercial Litigation, Health Care Law, Medical Negligence (2023)
- Canadian Legal Lexpert® Directory (2021-2024)  
 Litigation - Corporate Commercial, Medical Negligence, Professional Liability

#### SELECT CASES

- **Baines v Abounaja** – Counsel to the defendant emergency physician in an action relating to the transfer of the plaintiff from a community hospital to a tertiary centre.
- **Dr. Milad v CPSO** – Counsel to physician in motion for a stay of proceedings on the basis of an abuse of process.
- **R v Dixon Toronto Airport Holdings Inc** – Counsel to the defendant in charges pursuant to the *Occupational Health and Safety Act*.
- **Blackmore Management Inc v Carmanah Management Corporation** – Counsel to successful respondent in a dispute concerning the form of order arising from the appeal, successfully resisting additional terms regarding significant issues not argued on appeal.
- **Blackmore Management Inc v Carmanah Management Corporation et al** – Counsel to respondent shareholders in appeal concerning the revocability of a shotgun offer made pursuant to Shareholders Agreement.

- **College of Psychologists of Ontario v Sharma** – Counsel to regulator in successful application for a statutory injunction pursuant to the Regulated Health Professions Act preventing unauthorized practice as a psychologist and misuse of restricted titles.
- **Metro Ontario Inc v Mouzakitis et al** – Counsel to plaintiff in successful motion for Mareva and Anton Piller orders in a fraud action.
- **Abbasbayli v Fiera Foods Company et al** – Counsel to moving party in a successful motion to strike a plaintiff's Notice of Examination seeking to examine his former employer's Chief Executive Officer as a corporate representative in a wrongful dismissal action.
- **Abbasbayli v Fiera Foods Company et al** – Counsel to moving party in a successful motion to strike oppression claims under the OBCA against individual directors and officers in a wrongful dismissal action.
- **College of Psychologists of Ontario v Ontario (Health Professions Appeal and Review Board)** – Counsel to the College of Psychologists of Ontario in a successful appeal from a decision of the Health Professions Appeal and Review Board regarding registration.
- **Ontario (College of Optometrists of Ontario) v Zoberi** – Counsel to the College in a successful prosecution for professional misconduct of an optometrist.
- **Graff v Network North Reporting and Mediation** – Counsel to defendant family physician in successful motion for summary judgment against the plaintiff, subsequent appeal and related litigation
- **Liam Marshall v College of Psychologists** – Counsel to the successful respondent, the College of Psychologists of Ontario, in an appeal to Divisional Court from a decision of the Health Professions Appeal and Review Board confirming the College's decision not to register the appellant as a psychologist
- **MacIsaac v Mackinnon** – Counsel to the defendant in multi-week jury trial including a motion to exclude the evidence of a proposed expert witness. This case raised complicated issues of causation involving an extremely rare metabolic condition.
- **Jacques v Francis** – Counsel to the defendant emergency physician in the successful defence at trial of an alleged failure to diagnose an ischemic leg
- **MacIsaac v MacKinnon** – Counsel to the defendant physician in a successful motion to disqualify a plaintiffs' expert witness during a jury trial.
- **Ontario (College of Optometrists of Ontario) v Tepperman** – Counsel to the College in a successful prosecution for professional misconduct of an optometrist.
- **Joyce v MtGox Inc** – Counsel to the CEO of MtGox Inc, a defendant in a proposed Ontario class proceeding, concerning the failure of the Japanese BitCoin exchange.
- **Polman v The Chartered Professional Accountants of Ontario** – Counsel to the Chartered Professional Accountants of Ontario in the successful defense at the Human Rights Tribunal of Ontario of alleged discrimination concerning the unification of the accounting professions in Canada.
- **Gilmor v Nottawasaga Valley Conservation Authority** – Counsel to Conservation Ontario in successful intervention in appeal concerning the interpretation of the *Conservation Authorities Act*.

- **Willsee Holdings Ltd v Tim Seegmiller Holdings Inc** – Counsel to the moving party in a motion to disqualify counsel of record by reason of a conflict of interest.
- **Jacot v Baxter** – Counsel for estate trustee and former family physician in a will challenge primarily based on alleged incapacity proceedings.
- **Krandel v 1714176 Ontario Limited** – Counsel to the respondent shareholders in successfully resisting an application to require the preparation of audited financial statements on the basis of the expiry of the limitation period.
- **Charette v Trinity Capital Corporation** – Counsel to two defendants in a class action brought on behalf of taxpayers who participated in a charitable donation program.
- **Tingling v The College of Psychologists of Ontario** – Counsel to the College of Psychologists of Ontario on a successful motion to dismiss an application to the Ontario Human Rights Tribunal relating to the...
- **Zarubiak (Estate) v Luce** – Counsel to a family physician in the successful defence at trial of the decision to discharge a patient from hospital, following which the patient...
- **Law Society of Upper Canada v Groia** – Counsel to the Law Society of Upper Canada in the prosecution of a lawyer for professional misconduct. A three member panel of the Divisional Court...
- **Law Society of Upper Canada v Opara** – Counsel to the Law Society of Upper Canada in a successful appeal of a decision concerning unprofessional conduct by a barrister.
- **Law Society of Upper Canada v DeMerchant** – Counsel to the Law Society of Upper Canada in successfully defending a motion for production of prosecution documents on the basis of a claim of abuse of...
- **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...
- **Bogner v Orangeville Police Services** – Counsel to the plaintiffs in an action alleging negligent investigation by the police.
- **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...
- **1252662 Ontario Inc v Swisslog** – Counsel to the successful party in a contractual interpretation application seeking a declaration that alleged limitation of liability clauses in a...
- **Smith v Lattuca** – Counsel to the defendant physicians in a medical negligence proceedings. Successfully opposed a motion by the plaintiff to extend the deadline to...
- **R v Thompson** – Counsel to an accused facing charges of assault of a police officer and possession of a controlled substance. Evidence excluded and an acquittal on all...
- **Sanctuary et al v Toronto (City) et al** – Counsel to the Canadian Civil Liberties Association in partnership with a coalition of public interest organizations, in proceedings against the City of Toronto, fighting for better protections and conditions in the City's shelter system and respite sites in response to the COVID-19 pandemic.
- **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.
- **Quarterback Transportation Inc v Clegg** – Counsel to the respondents (defendants) successfully resisting Quarterback's motion for an

interlocutory injunction seeking to enforce restrictive covenants and other post-employment obligations on several departing employees, and a competitor.

- **Singh v The Chartered Professional Accountants of Ontario** – Counsel to the Chartered Professional Accountants of Ontario in a successful request to dismiss an application to the Human Rights Tribunal of Ontario at a summary hearing.

## SELECT PUBLICATIONS AND PRESENTATIONS

- **Roundtable: How has COVID-19 Changed Your Practice?** – In the Fall 2021 edition of The Advocates' Society's Keeping Tabs, Andrew Porter was asked how COVID-19 has impacted his practice now and for the future.
- **Long-Term Care Homes, COVID-19 & Personal Injury Litigation** – Andrew Porter shared his expertise at The Advocates' Society's program on *Long-Term Care Homes, COVID-19 & Personal Injury Litigation*. Andrew presented on a panel discussion on personal injury claims and related liability issues emerging in light of the COVID-19 pandemic.
- **Colloquium 2017** – Andrew spoke on the "Best Practices Before Tribunals" panel at the *2017 Colloquium: North Eastern Ontario Continuing Professional Development Conference*.

## BLOG POSTS

- **"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.
- **A Cautionary Tale: Admissions Against Interest in Regulatory and Subsequent Criminal Proceedings** – A recent decision from the Ontario Court of Appeal serves as a cautionary tale for regulated professionals and their counsel considering the terms of a potential resolution of discipline proceedings where related criminal proceedings may still be on the horizon. In *R v Lo*, the Court of Appeal upheld a trial judge's decision during a criminal jury trial to admit into evidence the Agreed Statement of Fact ("ASF") from a prior disciplinary hearing on related allegations before the College of Psychologists ("CPO").
- **Mutual Legal Assistance (with strings attached)** – Can a Judge impose conditions restricting the ability of a foreign country, receiving evidence pursuant to the *Mutual Legal Assistance in Criminal Matters Act (MLACMA)*, from sharing that evidence with another country as it sees fit? Despite the obvious difficulties which arise from such an Order, Justice Nordheimer did just this in his recent decision in *Mutual Legal Assistance in Criminal Matters Act (Re)*, in which he attempts to strike a balance between Canada's treaty obligations to assist in the

investigation of criminal activity, and the privacy interests of third parties.

- **Alberta Court Rejects Claim for Fraudulent Misrepresentation Inducing Marriage** – A recent Alberta trial decision reads like something out of an antiquated law school casebook in which damages are claimed based on the disappointment of one spouse (usually the husband) about the past conduct or character of the other (usually the wife).
- **Much Ado About Nothing: Procedural "Unfairness" in Via Rail v. Cannon** – Is it procedurally unfair for a party to be required to proceed to a hearing if it believes, erroneously, that a deadline to file a complaint has not been met, but later learns that in fact it had been all along?

## 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.
- **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.
- **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.
- **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.
- **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 Litigators Ranked Among Best Lawyers in Canada** – In the latest edition of *Best Lawyers in Canada*, 37 of our expert litigators are recognized for their expertise across 25 practice areas.
- **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.
- **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.
- **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 Congratulates Two New Partners** – Canada's leading litigation firm is proud to welcome two exceptionally strong advocates to the partnership, Brendan Morrison and Andrew Porter.
- **Ontario Court of Appeal Dismisses Appeal in Groia v. Law Society of Upper Canada** – Tom Curry, Jaan Lilles, and Andrew Porter of Lenczner Slaght acted as counsel to the Law Society of Upper Canada before the Court of Appeal for Ontario concerning the finding of

professional misconduct and one month suspension imposed by the Law Society Tribunal's Appeal Division following a lengthy discipline hearing into the lawyer's unprofessional conduct in court.

- **Divisional Court Dismisses Groia Appeal** – Tom Curry, Jaan Lilles and Andrew Porter acted as counsel for the Law Society of Upper Canada.
- **Osgoode Wins 40th Annual Gale Cup** – Andrew Porter's article is featured in Canadian Lawyer.
- **34th Annual Intensive Trial Advocacy Workshop** – Lindsay Beck, Brent Kettles, Brendan Morrison and Andrew Porter are the latest talented young lawyers to join Lenczner Slaght.
- **Welcoming four new lawyers to our firm** – Lindsay Beck, Brent Kettles, Brendan Morrison and Andrew Porter are the latest talented young lawyers to join Lenczner Slaght.

#### PROFESSIONAL ACTIVITIES

- Canadian Bar Association
- Ontario Bar Association
- The Advocates' Society