

Injunctions

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What was the most interesting development of 2024?

Injunctions decided across Canada in 2024 continue to be as varied and diverse as the rights and interests they aim to protect.

This year, we noted several interesting developments in injunctions addressing clashes between public and private rights. In [University of Toronto \(Governing Council\) v Doe](#), in which Lenczner Slaght represented the University of Toronto, and [Vancouver Island University v Kishawi](#), the Ontario Superior Court and BC Supreme Court respectively granted an injunction to end protest encampments on campus. In each case, the courts considered whether the Charter applied to University property with both courts expressing serious doubt that it does. Relatedly, courts in Ontario, Alberta, and British Columbia – in [Heegsma v Hamilton](#), [Coalition for Justice and Human Rights Ltd v Edmonton](#), and [Matsqui-Abbotsford Impact Society v Abbotsford \(City\)](#) respectively – all addressed injunctions concerning encampments for unhoused individuals. Each of these injunctions unsuccessfully sought to prevent the enforcement of statutes and bylaws that

would allow officials to evict encampment residents. While the Courts denied the injunctions, they generally held that the relevant statutes and bylaws needed to be enforced in a manner that respected the Charter rights of the encampment residents.

Notwithstanding the high bar to meet, many litigants also attempted to seek injunctions to prevent future harmful speech in defamation cases. Freedom of expression features heavily in these cases and in relation to the still relatively new tort of placing a party in a “false light” (see for example [Gillespie v Fraser](#)). As noted in the recent decision in [Evangelisti v Canadian Broadcasting Corporation](#) (upheld at the [Court of Appeal of Ontario](#)):

“A court will only issue an injunction to restrain future speech where the court is satisfied that any reasonable trier of fact would find the words to be spoken so manifestly defamatory and impossible to justify that an action in defamation would almost certainly succeed.”

However, where a defendant’s statements meet this threshold and there is evidence that the statements were made maliciously or there is an intention to continue making them, freedom of expression will continue to fall away in favour of the need to protect victims of defamatory content. This is particularly so in the internet era, where courts continue to recognize the wide reach of potential harm, as seen in [Spurvey v Melew](#) and [Château Morritt Inc c Chauret](#).

Finally, in 2024, injunctions continued to be a powerful tool to respond to cases of fraud. In [Eurobank Ergasias SA v Bombardier Inc](#), the Supreme Court of Canada upheld an injunction granted initially by the Québec Superior Court, enjoining National Bank from honouring a letter of credit which was found to have been demanded on a fraudulent basis. 2024 was also another strong year for Mareva injunctions, with the Toronto Commercial List

issuing cases such as [Trustar Underwriting Inc v Moses](#) and [Original Traders Energy Ltd \(Re\)](#), a case in which Lenczner Slaght acted as counsel, demonstrating that while freezing orders have long been characterized as “extraordinary relief” and even, at times, “draconian” – provided a moving party can adduce enough evidence to meet the test and comes to court making full and frank disclosure, the relief is very likely to be granted.

What are some takeaways for businesses from the past year?

The test to obtain an injunction remains a difficult one to meet (at a minimum, requiring a serious issue to be tried, irreparable harm, and a balance of convenience). Significant evidence is typically required. Nevertheless, despite this high threshold, businesses should keep in mind that courts are inclined to grant an injunction when a compelling case is made. Successfully obtaining an injunction can often lead to a favourable resolution of the litigation. Used carefully and strategically, an injunction can be a powerful tool in the litigation toolbox.

What’s one trend you are expecting in 2025?

Consistent with 2024, we expect that injunctions will be increasingly brought in the context of pressing political and social issues, including climate change, human rights, and public health. For a further example from this year, in the Alberta Court of Appeal’s decision in [Ferguson v Tejpar](#), the Court dealt with a restrictive covenant related to property use, which limited a property owner’s ability to build one residence per lot. While the Court found an injunction to enforce the valid restrictive covenant was premature on the facts, such decisions could be a precursor to more disputes involving environmental regulations and land use.

These injunctions, and others like them, may raise complex and novel legal and factual questions, as well as ethical and political dilemmas, that will require careful and creative analysis and resolution by the courts.



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OUR INJUNCTIONS EXPERTISE

Both obtaining and responding to extraordinary legal remedies such as injunctions require the support of a highly skilled and experienced legal team. Lenczner Slaght has extensive experience and knowledge in this specialized practice area and has successfully obtained and responded to a variety of injunctions on an urgent basis, including prohibitive, mandatory, and temporary injunctions, as well as Mareva, Anton Piller, and Norwich Orders.