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OUR SECURITIES EXPERTISE

Lenczner Slaght has extensive experience in litigating securities-related disputes before the courts, including the defence of professional negligence and other claims brought against investment advisors and dealers and significant expertise defending shareholder class action proceedings. We also help clients conduct internal corporate investigations relating to potential breaches of securities and other laws either prior to, or in conjunction with, inquiries by regulatory authorities.

Securities

"There is no requirement for a change to be 'important and substantial' before disclosure becomes mandatory."

What was the most interesting development of 2025, and why?

The Supreme Court of Canada's decision in Lundin Mining Corp v Markowich stands out as 2025's headline development in securities litigation and represents the Supreme Court's first direct look at disclosure obligations in a decade. Lenczner Slaght represented the CFA Societies Canada Inc, one of the intervenors on this appeal.

In *Lundin*, the plaintiffs alleged that pit wall instability and a rockslide – common occurrences in the mining industry – constituted a material change because the incident materially affected Lundin's global production capacity. The Court addressed when operational events trigger mandatory disclosure obligations under Ontario's Securities Act, rejecting a narrow interpretation of a "material change" in favour of a broad, purposive approach aligned with the statute's investor protection objectives. The Court emphasized that the *Securities Act* deliberately leaves "material change" undefined so it can apply flexibly across industries and corporate structures. The Court clarified there is no requirement for a change to be "important and substantial" before disclosure becomes mandatory, instead endorsing an approach which asks whether "a change in the business, operations or capital" would "reasonably be expected to have a significant effect on the market price of securities."

What's the primary takeaway for businesses from the past year?

The Supreme Court's decision in *Lundin* is not alone in recalibrating the risk calculation for businesses.

In Terry Longair Professional Corporation v Akumin Inc, the Ontario Court of Appeal clarified that a "public correction" under the *Securities Act* does not require a direct, immediate drop in share price. While the market's reaction can be probative of whether the alleged misrepresentation was material, the question of whether there was a "correction" focuses solely on whether the disclosure corrected an earlier misrepresentation. This clarification may reshape how plaintiffs can plead secondary market misrepresentation cases and could lower barriers to certification.

Together, the rulings in *Lundin* and *Longair* create a pincer effect and raise the practical stakes for continuous disclosure: more events require immediate disclosure (*Lundin*), and more corrections can support secondary-market claims (*Longair*).

Companies wanting to avoid the risk of a securities class action may choose to err on the side of caution and release information as soon as possible, but this must be balanced against other risks such as making premature disclosures if the available information is incomplete or potentially unreliable. For businesses, the path forward requires robust disclosure protocols that assume a broad interpretation of materiality and careful documentation of disclosure decisions.

What's one trend you are expecting in 2026?

The Ontario Court of Appeal's decision in Lochan v Binance Holdings Limited signals increased judicial willingness to apply traditional securities law frameworks to cryptocurrency platforms.

The Court found that Binance's mandatory arbitration clause, which required individual arbitration in Hong Kong at significant cost, was both unconscionable and contrary to public policy.

Many cryptocurrency exchanges, trading platforms, and digital asset service providers have operated on the assumption that their user agreements could route disputes away from Canadian courts and toward foreign arbitration forums. *Lochan* demolishes that assumption for Ontario-based investors. Combined with ongoing regulatory scrutiny from the Ontario Securities Commission and increased enforcement activity, 2026 may become a landmark year for digital asset securities litigation in Ontario.