

# ANDREW C. MURRAY

## Appeals

PARTNER

*"The hours of preparation and endless hours of a written argument are all worth it when you stand up in front of three judges at the Court of Appeal, get peppered with questions, and hold your own."*

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## PROFESSIONAL EXPERIENCE

- ◆ Partner, Lerners LLP (2001 to present)
- ◆ Associate lawyer, Lerners LLP (1994-2001)
- ◆ Articling student, Lerners LLP (1992-1993)

## NOTEWORTHY CASES

- ◆ *Allen v. Security National Insurance Co./Monnex Insurance Mgmt. Inc.* – This appeal decision from Director's Delegate Blackman clarifies, in a helpful way for claimants, how to rate overlapping impairments when attempting to determine an individual's whole person impairment under the AMA Guides, in the context of a catastrophic impairment application. Application for judicial review dismissed by Divisional Court.
- ◆ *Folmer v. Graham, Ont. C.A.*: First hearing by the Court of Appeal on certain issues relating to the ability to claim healthcare expenses under the Bill 59 motor vehicle legislation
- ◆ *Plester v. Wawanesa, Ont. C.A.*: Successful argument upholding a \$100,000.00 punitive damage award in favour of the plaintiff's estate, the plaintiff having died before trial.
- ◆ *South Huron (Municipality) v. Huron Contractors Inc., Ont. C.A.*: Convictions under Building Code Act upheld on appeal. Helpful appellate authority established on the scope of revocation of building permits available to municipalities under section 8(10) of the Building Code Act
- ◆ *Bray v. Fijnheer et al, Ont. C.A.*: Successful appeal dealing with the cause of action known as "knowing assistance" of fraud or breach of fiduciary duty
- ◆ *R. v. EllisDon, Ont. C.A.*: Arguments grounded in constitutional law surrounding the proper jurisdiction — federal or provincial — of health and safety legislation at Pearson Airport

## SELECTED PRESENTATIONS/PUBLICATIONS

Andrew takes an active role in instructing other lawyers on important continuing legal education issues. He regularly attends as an invited speaker at conferences and seminars hosted by the Ontario Trial Lawyers Association, The Advocates' Society, the Ontario Bar Association, the Middlesex Law Association, Canadian Institute, Insight and other professional trade organizations. He is often asked to appear as a guest lecturer at Ontario law schools.

- ◆ "The Case Goes On #Plaintiff Strong", (Co-Chair, Ontario Trial Lawyers Association Fall Conference, October 23, 2020)
- ◆ "Unravelling Invisible Pain: The Medico-legal Perspective" (Guest Speaker, Canadian Society of Medical Evaluators, June 1, 2018)
- ◆ "Campbell v. Bruce County: Discovery and Trial Techniques" (Guest Speaker, Ontario Trial Lawyers Association 2018 Spring Conference, May 25, 2018)
- ◆ "Tricks of the Trade 2018" (Guest Speaker, The Advocates' Society Conference, January 26, 2018)
- ◆ "Protecting the Trial from Appeal: Practical Tips" (Guest Speaker, 11th Annual Personal Injury Conference, Middlesex Law Association, November 30, 2017)
- ◆ "Take "claw-sion" on what you include in that WPI calculation: Panel on double counting/Security National & Allen case" (Panelist, CAT-apult yourself into the new world of CAT and LAT, Medico-Legal Society of Toronto, February 2, 2017)
- ◆ "Negotiation Strategies for Litigators" (Guest Speaker, The Advocates' Society Conference, April 25, 2016)
- ◆ "Testify Without Fear" (Faculty member, The Advocates' Society 4th Annual Expert Witness Academy, November 20 and 21, 2015)

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- ◆ "Catastrophic Injuries: How to Fund Patient Care and Understand the Legal Labyrinth" (Guest speaker, Maxim Medical, Windsor, June 3, 2015)
- ◆ "AB Lawyers Looking For A New Home – Where Is That LAT Anyway?" (Speaker, Canadian Defence Lawyers 6th Annual Accident Benefit Program, April 24, 2015)
- ◆ "Tricks of the Trade 2015 Critical Updates and Tips in a New World of Personal Injury" (Co-chair, The Advocates' Society Conference, January 30, 2015)
- ◆ "Straight from the Bench" (Guest Speaker, Middlesex Law Association Conference, London, May 28, 2014)
- ◆ "When are Structures Mandatory", (Presenter and Panel member, Ontario Trial Lawyers Association 2014 Spring Conference, May 30, 2014)
- ◆ "Forget the 6 Pack, You need a full 2-4 to work with these ABS", (Co-Chair, Canadian Defence Lawyers 5th Annual Accident Benefits Joint Symposium, April 10, 2014)
- ◆ "Accident Benefits: The Latest Law and the Future of FSCO", (Panel member, Osgoode Hall Law School Conference, March 28, 2014)
- ◆ "Tricks of the Trade 2014 In Pursuit of Excellence: Practical Tools to Enhance Your Practice" (Co-chair, The Advocates' Society Conference, January 24, 2014)
- ◆ "Best Practices for Infant Settlement Motions" (Presenter, Colloquium 2013, Sudbury District Law Association, October 18, 2013)
- ◆ "SETTLED!: Sowing the Seeds for Settlement" (Participant, Helping your client through the Settlement Process: Managing client expectations, Ontario Trial Lawyers Association, May 30-31, 2013)
- ◆ "The Osgoode Certificate in Personal Injury Law & Practice" (Participant, Client Management, Osgoode Hall Law School Conference, April 3, 2013)
- ◆ "Tricks of the Trade 2013 Staying Ahead of the Curve: Latest Updates, Critical Case Law and New Practical Tips" (Co-chair, The Advocates' Society Conference, January 22, 2013)
- ◆ "Appeals in the Personal Injury Context" (Presenter, Sixth Annual Personal Injury Conference, December 5, 2012) ([read presentation](#))
- ◆ Instructor for The Advocates' Society National Expert Witness Academy (April 30, 2012)
- ◆ "Tricks of the Trade 2012 Winning The Serious Case: Practical Strategies, Updates and Tips" (Co-chair, The Advocates' Society Conference, January 27, 2012)
- ◆ "The Short Course on Fibromyalgia and Chronic Pain Claims: The Science, the Law, the Strategies" (Participant, Demonstration Examination/Cross Examination of an Expert in a Chronic Pain Case, Osgoode Hall, November 24-25, 2011)
- ◆ "7th Annual Update Personal Injury Law and Practice" (Speaker, Osgoode Hall Law School Conference, September 28, 2011)
- ◆ "We've Got Your Back!" (Mentor, The Advocates' Society 2011 Mentoring Dinner, London, June 6, 2011)
- ◆ "Emerging trends in Ontario's accident benefits" (The Lawyers Weekly, April 29, 2011)
- ◆ "The Law of Expert Evidence: What Every Prospective Expert Witness Needs to Know" (Presenter, The Advocates' Society's National Expert Witness Academy, Toronto, April 28-30, 2011)
- ◆ "99 Problems but a PAF ain't one" (Guest Speaker, Canadian Defence Lawyers 2nd Annual Accident Benefits Joint Defence & Plaintiff Seminar, Toronto, April 8, 2011)
- ◆ "Straight from the Bench" (Guest Speaker, Middlesex Law Association Conference, London, April 21 & 22, 2010)
- ◆ "Accident Benefits: How to Win Your AB Case from Start to Finish" (Guest Speaker, Canadian Defence Lawyers Conference, Toronto, April 15, 2010)
- ◆ "Cross-examination: Winning Techniques Used by Skilled Cross-Examiners" (Instructor, The Advocates' Society Workshop, March 4, 2010)
- ◆ "CAT Claims: Current Developments & Trendspotting" (Guest Speaker, The Canadian Institute's 8th Annual Forum on Personal Injury Settlements, January 25-26, 2010)
- ◆ "Dynamic Discoveries: Principles and Practice" (Skills Instructor, The Advocates' Society Civil Litigation Workshop, December 3, 2009)
- ◆ Ontario Mutual Insurance Association in-house training seminar on catastrophic designation (Guest speaker, October 22, 2009, Cambridge)
- ◆ "Litigating Motor Vehicle Accident Claims" (Guest Speaker, Insight, September 30 – October 1st, 2009, Toronto)
- ◆ "Damages: The Heart of the Case" (Chair, Ontario Trial Lawyers Association 2009 Spring Conference, May 28 & 29, 2009)
- ◆ Participant, Mock CAT Arbitration (Medico-Legal Society Conference, Toronto, April 22, 2009)
- ◆ "Personal Injury Settlements" (Guest Speaker, The Canadian Institute's Forum, Toronto, Ontario, February 23 & 24, 2009)
- ◆ "Documentary and Oral Discovery in Long-Term Disability Actions", published in OTLA magazine "The Litigator", October 2008
- ◆ "Lawyer Client Communication: Keeping the Client Happy and Informed" (Guest Speaker, Ontario Trial Lawyers Association 2008 Fall Conference, Toronto, October 30 & 31, 2008)
- ◆ "Litigating Disability Insurance Claims" (Guest Speaker, The Canadian Institute's 9th Annual Conference, Toronto, October 27 & 28, 2008)
- ◆ "Litigation by the Lake" (Chair, The Advocates' Society Fall Forum 2008, Niagara-on-the-Lake, October 17 & 18, 2008)
- ◆ "Straight from the Bench" Conference (Middlesex Law Association), Witness for trial advocacy demonstration, May 1, 2008
- ◆ "File Management Strategies" (Guest Speaker, "Setting Up for Success", Ontario Trial Lawyers Association Conference, April 18, 2008)
- ◆ "Winning Personal Injury Cases" (Guest Speaker, The Canadian Institute's 6th Annual Forum, Toronto, February 20 & 21, 2008)

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- ◆ "How to Win Cases" (Co-Chair, The Advocates' Society, London Court House Series, London, February 14 & 21, 2008)
- ◆ "Examination-in-chief and Cross-examination of Experts" (Guest Instructor, The Advocates' Society, Kitchener, November 8, 2007)
- ◆ "Deal or No Deal: Assessment of Damages" (Guest Speaker, Middlesex Law Association and Ontario Bar Association, London, November 1, 2007)
- ◆ "Obtaining Court Approval for People Under Disabilities" (Panel member, 2007 Ontario Trial Lawyers Association Fall Conference, Toronto, October 26 and 27, 2007)
- ◆ "Civil Litigation Skills Certificate Program - Cross-examination: Crucial Skills and Techniques" (Guest instructor, The Advocates' Society, October 11, 2007)
- ◆ "Long Term Disability Conference" (Guest speaker, Ontario Trial Lawyers Association, Burlington, September 28, 2007)
- ◆ "Motor Vehicle Accident Litigation" (Guest speaker, The Canadian Institute's Advanced Forum, Toronto, September 25 & 26, 2007)
- ◆ "Setting up for Success" - A New Lawyers Division Primer Conference (Guest Speaker, Ontario Trial Lawyers Association, Toronto, March 23, 2007)
- ◆ "Litigating Personal Injury Damages" (Guest speaker, The Canadian Institute's 5th Annual Forum, Toronto, February 20, 2007)
- ◆ "From Back Stage to Centre Stage: Planning to Win Your Case" (Co-Chair, The Advocates' Society 2007 London Court House Series, London, February 8 & 15, 2007)
- ◆ "Criminal Acts in a Tortious Context", a paper published for The Litigator, Journal of the Ontario Trial Lawyers Association, Fall 2006
- ◆ The Advocates' Society Fall Forum 2006, (Member, Organizing Committee and Moderator, Collingwood, Ontario, September 29 & 30, 2006)
- ◆ "Winning Strategies to Build Your Case" (Guest Speaker, The Canadian Institute 4th Annual Forum on Litigating Personal Injury Damages, Toronto, February 23 & 24, 2006)
- ◆ "Streamlining the Process of Proving and Defending Economic Loss to Resolve Cases Efficiently: The Plaintiff's Perspective", (A paper prepared for The Canadian Institute 4th Annual Forum on Litigation Personal Injury Damages, Toronto, February 23 & 24, 2006)
- ◆ The Advocates' Society 2006 Court House Series, London (Conference Chair, February 9 & 16, 2006)
- ◆ "Ten Hot Topics in Advocacy" (Co-Chair, Ontario Bar Association, London, October 19, 2005)
- ◆ Editorial on Helmet's for Kids Campaign (The Litigator, OTLA, Summer 2005)
- ◆ "It's the First Day of Trial: What Do I Do?" (OTLA Conference, Toronto, May 2005)
- ◆ Participant, Civil Trial Advocacy Demonstration (Civil Trial Advocacy Course, Windsor, March 9, 2005)
- ◆ "Setting up for Success" OTLA's Motor Vehicle Primer (Co-chair, Ontario Trial Lawyers Association MVA Conference, Toronto, March 4, 2005)
- ◆ London Court House Series - Focus on Argument (Organizing Committee, The Advocates' Society and the Middlesex Law Association, London, February 10 and 17, 2005)
- ◆ "Litigating in the Zone: Winning Strategies to Raise the Level of Your Game" (Chair, Ontario Trial Lawyers Association 2004 Fall Conference, Toronto, October 22-23, 2004)
- ◆ "Lawyers: A Necessary Evil - How to Hire or Fire a Lawyer - Things You Need to Know" (Chair, Lerner's, London, October 14, 2004)
- ◆ Mock Coroner's Inquest (Participant, Industrial Accident Prevention Association, London, May 19, 2004)
- ◆ "Perspectives on Bill 198" (Guest Speaker, Ontario Bar Association, London, May 18, 2004)
- ◆ "An Overview of The Advocates' Society Task Force on Advocacy" (Guest Speaker, London, May 12, 2004)
- ◆ "Trial Advocacy" (Guest Speaker, Faculty of Law, The University of Western Ontario, April 7, 2004)
- ◆ "The Law of Causation: A Review and an Update" (Ontario Bar Association Conference, March 9, 2004)
- ◆ "Mediations" (Guest Speaker, Ontario Insurance Adjusters Association Trade Show, Toronto, February 4, 2004)
- ◆ "Long-Term Disability Settlements: A Taxing Situation" (Ontario Trial Lawyers Association Fall Conference, October 23-25, 2003)
- ◆ "Our Invisible Enemies" (Guest Speaker, Ontario Trial Lawyers Association Fall Conference, Toronto, October 23-25, 2003)
- ◆ "Case Shows Clear Trend to Award Bad-Faith Damages" (The Lawyers Weekly, July 11, 2003)
- ◆ "Trial Advocacy", November 7, 2002, Guest Speaker, Faculty of Law, University of Western Ontario
- ◆ Future Care Cost Analysis - Determining Client Need Over a Lifetime, October 23, 2002, Guest Speaker, Community Rehab, Hamilton
- ◆ "Bill 59: What Expenses can be Claimed as Tort Damages?", an article published in The Litigator, Summer 2002
- ◆ Litigating Disability Insurance Claims, April 18, 2002, Guest Cross-Examiner, Toronto
- ◆ "Tough Cases, Hard Questions: Motor Vehicle Litigation Today", a paper published for the Canadian Bar Association-Ontario, April 2001

## ACHIEVEMENTS

- ◆ Selected by peers for inclusion in the Best Lawyers in Canada (2018-2022)
- ◆ Certified as a Specialist in Civil Litigation by the Law Society of Ontario

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- ◆ Consistently recommended by Lexpert as a leading lawyer in the area of personal injury (2013-2019, 2021)
- ◆ Recipient, Dean Edgell Award, presented by Ontario Trial Lawyers Association, 2009
- ◆ Prolific lecturer and author of articles for numerous Continuing Legal Education providers, including Ontario Trial Lawyers Association, Insight, The Advocates' Society, The Canadian Institute, the Ontario Bar Association and Middlesex Law Association

## MEMBERSHIPS

- ◆ President, Ontario Trial Lawyers Association (2012)
- ◆ Co-Chair of The Advocates' Society Personal Injury and Insurance Law Practice Group
- ◆ Member of the Medico-Legal Society of Toronto
- ◆ American Association of Justice
- ◆ Head Injury Association of London & District
- ◆ Middlesex Law Association

## EDUCATION

- ◆ Admitted to the Ontario Bar (1994)
- ◆ Bachelor of Laws, The University of Western Ontario (1992)
- ◆ Bachelor of Arts, Trent University (1989)

## PERSONAL INFORMATION

- ◆ Andrew enjoys swimming, skiing, squash, and tennis. He is interested in cultural anthropology and world music. Andrew enjoys cooking and playing guitar for his family. Andrew devotes much of his free time to maintaining and enhancing his saltwater aquarium.

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