

# PETER W. KRYWORUK

## Appeals

PARTNER

*"Whether you win or lose at first instance, the fresh perspective of an appellate counsel can improve the likelihood of success on the appeal."*

**Direct Phone:** 519.640.6317

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### PROFESSIONAL EXPERIENCE

- ◆ Partner, Lerners LLP (1989 to present)
- ◆ Practice Group Leader, Lerners Health Law Group (2003 to present)
- ◆ Associate lawyer, Lerners LLP (1984-1988)

### PRACTICE AREAS

- ◆ Health Law
- ◆ Class Actions (Plaintiff and Defence)
- ◆ Commercial Litigation
- ◆ Appeals
- ◆ Personal Injury and Insurance Law

### AWARDS & RECOGNITION

- ◆ Fellow, Litigation Counsel of America (2019)
- ◆ Fellow, American College of Trial Lawyers (2008)
- ◆ Certified as a Specialist in Civil Litigation by the Law Society of Ontario
- ◆ *Chambers Canada: The Leading Lawyers and Law Firms in Canada:* Leading lawyer in Healthcare – Contentious
- ◆ *Canadian Legal Lexpert Directory:* leading lawyer in the areas of Medical Negligence, Personal Injury, Product Liability, Professional Liability, Corporate Commercial Litigation, Class Actions, and Commercial Insurance
- ◆ *Best Lawyers in Canada:* Appellate Practice; Class Action Litigation; Corporate and Commercial Litigation; Health Care Law; Legal Malpractice Law; Medical Negligence; Personal Injury Litigation; Product Liability Law
- ◆ Lawyer of the Year Health Care Law London/Windsor (2021; 2019; 2016)
- ◆ Lawyer of the Year Class Action Litigation London/Windsor (2018)
- ◆ Lawyer of the Year Product Liability Law London/Windsor (2017)
- ◆ Lawyer of the Year Legal Malpractice Law London/Windsor (2014)
- ◆ Lawyer of the Year Personal Injury Litigation London/Windsor (2013; 2009)
- ◆ Recognized in the Lexpert/Report on Business Special Edition: Canada's Leading Litigation Lawyers (2018-2022)
- ◆ AV Preeminent Rated Attorney by Martindale-Hubbell representing the highest peer review rating in Legal Ability and Ethical Standards
- ◆ Recognized as a Legal Leader in Canada by American Lawyer Media and Martindale-Hubbell (2013-2014; 2016-2017)
- ◆ Selected as a Leading US/Canada Cross-Border Litigation Lawyer by Lexpert in the areas of product liability and corporate commercial litigation since 2012
- ◆ Senior trial co-counsel in Andersen v. St. Jude Medical, Canada's first medical product liability class action trial

**LERNERS**

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- ◆ Counsel to the Honourable Mr. Justice Roland Haines, Review of Meat Regulation and Inspection in Ontario (2004)
- ◆ Gold medals for academic standing and contribution to the Faculty of Law, University of Windsor

## NOTEWORTHY CASES

- ◆ *Farej v. Fellowes*, 2022 ONCA 254
- ◆ *Farej v. Fellowes*, 2022 ONSC 3722
- ◆ *Gordon Dunk Farms Limited v. HFH Inc.*, 2021 ONCA 68
- ◆ *1688782 Ontario Inc. v. Maple Leaf Foods Inc.*, 2020 SCC 35
- ◆ *Tuffnails v. Meakes*, 2020 ONCA 240
- ◆ *Krieser v. Garber*, 2020 ONCA 699
- ◆ *Drake v. Goodwin*, 2019 ONSC 2865, (Divisional Court)
- ◆ *Peralta v. Peralta*, 2019 ONSC 2852
- ◆ *1688782 Ontario Inc. v. Maple Leaf Foods Inc.*, 2018 ONCA 407
- ◆ *Nordik Windows v. Aviva*, 2021 ONSC 4477
- ◆ *Kapoor v. Kuzmanovski*, 2018 ONSC 4770
- ◆ *ALS Society of Essex v. Windsor and Tecumseh* 2016 ONSC 1929 (Div. Ct.)
- ◆ *ALS Society of Essex v. Windsor*, 2016 ONSC 676
- ◆ *Campbell v. Bruce (County)*, 2016 ONCA 371
- ◆ *Hollowcore Incorporated v. Visocchi*, 2016 ONCA 600
- ◆ *Hollowcore v. Visocchi*, 2016 ONCA 761
- ◆ *ALS Society of Essex v. Windsor*, 2015 ONCA 572
- ◆ *ALS Society of Essex v. Windsor*, 2013 ONCA
- ◆ *Tuffnails v. Meakes*, 2020 ONCA 240
- ◆ *Norman v. Thunder Bay Regional Health Centre*, 2015 ONSC 3252
- ◆ *Goodwin v. Olupona*, 2013 ONCA 259
- ◆ *Lauzon v. AXA Insurance (Canada)*, 2013 ONCA 664
- ◆ *Anderson v. St. Jude Medical Inc.*, 2012 ONSC 3660 - Canada's first medical product liability class action trial (Co-Lead Counsel)
- ◆ *Abu Hammam v. Usher*, 2012 ONCA 818
- ◆ *Wolfe v. Pickar*, 2011 ONCA 347
- ◆ *Wolfe et al. v. Wyeth et al.*, 2010 ONSC 2368
- ◆ *v. EllisDon Corporation Ltd.*, 2008 ONCA 789
- ◆ *Ontario (Ministry of Labour) v. Modern Niagara Toronto Inc.*, 2008 ONCA 590
- ◆ *Tanner v. Clarke and Wilf Morrison Trucking*, (28 February 2003), Toronto C38886 (Ont. CA)

## PRESENTATIONS AND PUBLICATIONS

- ◆ Author, lecturer and presenter on various legal topics including: civil procedure, trial advocacy, law of damages, health law, tort law, personal injury and insurance law, construction law and occupational health and safety
- ◆ Panelist: "Scenarios: Conducting Realistic Damage Assessments", Tricks of the Trade, The Advocates' Society, January 2023
- ◆ Presenter: "Batch/Serial Claims and Mass Torts", Medical Professional Liability (MPL) Association International Conference, October 2022
- ◆ Co-presenter: "Appeal Proofing Your Trial", Sixteenth Annual Straight From the Bench Conference, Middlesex Law Association, November, 2021
- ◆ Co-Author "Revisiting Class Counsel Fee Approvals: Towards Presumptive Validity of Contingency Fee Agreements", *The Canadian Class Action Review*, Volume 17, Issue 1 (Irwin Law), August 2021
- ◆ Co-Author: "The Intersection of Class Proceedings and Mass Tort Litigation: *Arsalani v Islamic Republic of Iran*", *BCF Class Action Netletter™*, (LexisNexis Canada Inc.), April 2021
- ◆ Co-Presenter: "Appeal Proofing Your Trial", Ontario Trial Lawyers Association Fall Conference, October 2020
- ◆ Co-Author: "Limitation Periods in No Fault Insurance Claims", *The Middlesex Law Association Snail*, February 2020

**LEARNERS**

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- ◆ Co-presenter: "[Effective Use of Experts](#)", Litigating the Medical Malpractice Claim , Ontario Bar Association Program, April 2013
- ◆ Co-Presenter: "[Waiver of Tort on Trial: \*Anderson v. St. Jude Medical\*](#)", Civil Litigation Summit, ", Law Society of Upper Canada, May 2012
- ◆ Co-Presenter: "[Retaining Experts](#)", Medical Malpractice: A How to Guide, Ontario Bar Association Continuing Legal Education, March 2012
- ◆ Co-Presenter: "[Use of Medical Literature in Medical Negligence Actions](#)", Medical Malpractice: A How to Guide, Ontario Bar Association Continuing Legal Education, March 2012
- ◆ Co-Presenter: "[Discovery: Obtaining Full and Effective Disclosure](#)", Medical Malpractice: A How to Guide, Ontario Bar Association Continuing Legal Education, March 2012
- ◆ Co-Author: [Revisiting Wrongful Life Claims in Canada – Can There Be A Cause of Action \*Bovingdon v. Hergott\*](#)", *The Advocates' Quarterly*, Volume 34, Number 2, April 2008
- ◆ Co-Author: "[The Illusory Shield: The Collateral Use of Information in Civil and Regulatory Proceedings](#)", *The Litigator*, May 2007
- ◆ Co-Author: "[With Patient Rights Come Patient Responsibilities: Contributory Negligence in Medical Negligence Actions](#)", *The Advocates' Quarterly*, Volume 33, 2007
- ◆ Co-Author: "[Mandatory Physician Reporting of Drivers with Medical Conditions and Legal Considerations](#)", *Can J Cardiol*, Vol 20, No 13, p 1324, 2004
- ◆ Contributing Editor, "Remedies in Tort" (Carswell), 2000
- ◆ Co-Author: "[Potential Legal Liability in the Allocation of Scarce Health Care Resources](#)", *Annals RCPSC*, Vol 28, No 3, p 153, 1995
- ◆ Past Adjunct Professor at the Faculty of Law, University of Western Ontario in civil procedure
- ◆ Lecturer in medical negligence and class actions at Western University Faculty of Law
- ◆ Past Contributing Editor, Professional Liability and Discipline Litigation Journal, Federated Press

## LERNX POSTS

- ◆ [The Importance of Mentorship in Young Appellate Advocacy](#)
- ◆ [Appellate Advocacy: The Next Generation](#)
- ◆ [That's Final: ONCA confirms that Opting-Out of a Class Action is a Substantive Right and should be treated as a Final Order](#)
- ◆ [Azar v Strada Crush Limited: The Importance of a Suitable Indemnity Agreement for Adverse Costs for the Representative Plaintiff in a Class Action](#)
- ◆ [Summary of Recent Changes to the Class Actions Practice Directions, Best Practices Guide, and Model Orders](#)
- ◆ [The Intersection of Class Proceedings and Mass Tort Litigation: \*Arsalani v Islamic Republic of Iran\*](#)
- ◆ [Court of Appeal Gives Helpful Guidance on Appellate Courts' Fact-Finding Powers](#)
- ◆ [The Rule in Foss v. Harbottle is Alive and Well in Ontario](#)
- ◆ [SCC Addresses Third Party Litigation Funding Part 2](#)
- ◆ [Goliath is not entitled to costs: Defendant denied costs despite success at trial](#)
- ◆ [SCC Addresses Third Party Litigation Funding](#)
- ◆ [How to Avoid and Successfully Manage Business Disputes](#)
- ◆ [Supreme Court of Canada Clarifies Test for Rectification](#)
- ◆ [First-Ever Class Action Clinic Launched in Windsor](#)
- ◆ [Overlapping coverage: Insurers are more likely to equally share the burden](#)
- ◆ [Insurance for Small Businesses: Prudent Management of Risk](#)
- ◆ [Sufficient Evidence of Commonality in Multi-product Medical Devices Class Actions - Cautionary Tales](#)
- ◆ [Waiver of Tort - So long, It's Been Nice to Know You?](#)
- ◆ [Good Faith in Performance of Contracts](#)
- ◆ [Court of Appeal Clarifies Enforceability of Entire Agreement Clauses](#)
- ◆ [Court of Appeal Clarifies Procedural Requirements for Admission of Expert Evidence in Ontario](#)
- ◆ [To Costs or Not To Costs – Is That the Question?](#)
- ◆ [Are You Awake?](#)
- ◆ [Successful Defendants Ordered to Bear Own Costs of Common Issues Trial](#)
- ◆ [Can Contractual Language in an Insurance Policy Override a Statutory Limitation Period?](#)
- ◆ [Supreme Court of Canada Clarifies Pierringer Agreements](#)
- ◆ [The Perils of Poor Pleadings](#)

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- ◆ [Are lawsuits bad for business?](#)
- ◆ [Waiver of Tort on Trial](#)

## COMMUNITY SERVICE

- ◆ Member of the Executive Committee and Board of Directors, The Advocates' Society
- ◆ Past President, The Advocates' Society
- ◆ Past Vice-President, Member of the Executive Committee and Board of Directors, The Advocates' Society
- ◆ Past Treasurer, Member of the Executive Committee and Board of Directors, The Advocates' Society
- ◆ Past Secretary, Member of the Executive Committee and Board of Directors, The Advocates' Society
- ◆ Past Chair, Standing Committee on Collegiality, Mentoring & Membership (CMM), The Advocates' Society
- ◆ Past Member, Board of Directors, Fanshawe College Foundation
- ◆ Past Member, Board of Directors, The Canadian Medical Hall of Fame
- ◆ Past Chair, Board of Directors, London Health Sciences Foundation
- ◆ Past Member, Board of Directors, London Health Sciences Foundation
- ◆ Past Member, Board of Directors, London Health Sciences Centre
- ◆ Past Member, Board of Directors, London Community Foundation
- ◆ Past Member, Investment Committee, London Community Foundation
- ◆ Past Chair, Vital Signs Steering Committee, London Community Foundation
- ◆ Member of Ambassadors Club, London Health Sciences Foundation
- ◆ Past President and Board Member, London Ukrainian Centre
- ◆ Past Chair, Victoria Hospital Country Classic Auction
- ◆ Past Chair and Founding Member, Tastings, an event in support of the London Health Sciences Centre
- ◆ Past Vice Chair, Fanshawe College Capital Campaign
- ◆ Past Member, Fanshawe College Investment Committee

## MEMBERSHIPS

- ◆ Barrister, Order of Juris, Litigation Counsel of America
- ◆ Trial Law Institute, Litigation Counsel of America
- ◆ Diversity Law Institute, Litigation Counsel of America
- ◆ The Advocates' Society
- ◆ American College of Trial Lawyers
- ◆ Litigation Counsel of America
- ◆ Canadian Bar Association
- ◆ Ontario Bar Association
- ◆ Middlesex Law Association
- ◆ Ukrainian Canadian Bar Association
- ◆ Member, The Holland Access to Justice in Medical Malpractice Group (The Holland Group)
- ◆ Past Member, Advisory Committee, Federal Judicial Appointments for Ontario (Law Society of Ontario representative)

## EDUCATION

- ◆ Admitted to Ontario Bar (1984)
- ◆ Bachelor of Laws, University of Windsor (1982)

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