

# EARL A. CHERNIAK, LLD, K.C., FCI.ARB

*Defence Class Actions*

PARTNER

*"My involvement in class actions goes back to its Ontario beginnings in 1993, acting for both plaintiffs and defendants. I was involved in some of the seminal cases and watching the jurisprudence develop has been challenging and exhilarating. This is an area where experience counts."*

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## PROFESSIONAL HISTORY

- ◆ Partner, Lerners LLP
- ◆ Benchler, The Law Society of Upper Canada and Chair and Vice-Chair of Proceedings Authorization Committee, 1999-2007
- ◆ Fellow, The Chartered Institute of Arbitrators
- ◆ Fellow, International Academy of Trial Lawyers
- ◆ Fellow, American College of Trial Lawyers
- ◆ Panel Member, International Arbitrations, International Centre for Dispute Resolution (ICDR/AAA)
- ◆ Member, Canadian Roster of Arbitrators, International Chamber of Commerce (ICC)
- ◆ Member, (and Past Chair), Toronto Commercial Arbitration Society

## ACHIEVEMENTS

- ◆ Ranked in Chambers Canada in the area of Most in Demand Arbitrators (2021)
- ◆ Selected by peers for inclusion in the 2020 Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada
- ◆ Selected by peers for inclusion in The Best Lawyers in Canada for Administrative and Public Law, Alternative Dispute Resolution, Appellate Practice, Bet-the-Company Litigation, Class Action Litigation, Corporate and Commercial Litigation, Defamation and Media Law, Director and Officer Liability Practice, International Arbitration, Legal Malpractice Law, Product Liability Law, Securities Law
- ◆ Honorary Doctor of Laws, Law Society Ontario (2019)
- ◆ Selected by peers for inclusion in the Canadian Legal Lexpert Directory, 2021-2022
- ◆ Selected by peers for inclusion in the 2019 Lexpert/Report on Business Special Edition: Canada's Leading Litigation Lawyers
- ◆ Selected by peers for inclusion in the 2016 Lexpert Guide to the U.S./Canadian Cross-Border Litigation Lawyers in Canada
- ◆ Toronto Lawyers Association Award of Distinction (2015)
- ◆ Lexpert Zenith Award (2012)
- ◆ Recipient of the 2006 Osgoode Hall Law School Alumni Gold Key Award
- ◆ Selected by peers to be included in the 2006 Lexpert Guide to the 100 Most Creative Lawyers in Canada
- ◆ First recipient of the Ontario Bar Association Award for Excellence in Civil Litigation (2004)
- ◆ The Advocates' Society Medal (1996)
- ◆ President, The Advocates' Society (1979-1980)
- ◆ Appointed Queen's Counsel (1974)

**LERNERS**

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- ◆ Gold Medalist, Osgoode Hall Law School (1960)

## SELECTED PRESENTATIONS/PUBLICATIONS

- ◆ The Independent Arbitrator: Challenging Arbitrator Independence (with Rebecca Shoom), ADR Perspectives September 10, 2019
- ◆ The Implications of the Groia Case, October 11, 2018, Windsor, Ontario
- ◆ The Good Old Days, Advocates' Journal Summer, 2018
- ◆ Faculty member, "Exercising Professionalism and Civility", The Advocates' Society, December 18, 2017
- ◆ Panellist "Domestic Arbitration in Canada: Major Cases and Trends", Chartered Institute of Arbitrators – Canada Branch 5th Annual Symposium, September 28, 2017
- ◆ Review of Confidentiality in Arbitration for McGill Law Journal, April 2016
- ◆ Arbitration Clauses: Time Crafting Clauses Well Spent, Lawyers Weekly, February 12, 2016
- ◆ Sattva Revisited, Advocates' Journal, Fall 2015
- ◆ Panellist, Commercial Arbitration 2015, June 5, 2015, Vancouver
- ◆ A Sea Change in the Interpretation of Contracts (and much more), Law Times, August 18, 2014
- ◆ Confidentiality in Arbitration, Advocate Daily, April 2014
- ◆ Toronto as a Commercial Arbitration Centre, Law Times, February 3, 2014
- ◆ Why Do Parties Arbitrate?, ADR Institute of Alberta (ADRIA) Conference Calgary, Alberta, June 6-7, 2013
- ◆ Arbitrator Disclosure, ADR Perspectives, May 2016 "Toronto arbitration profile bolstered", AdvocateDaily.com, May 30, 2013
- ◆ "Uniform arbitration law needed in Canada", AdvocateDaily.com, April 22, 2013
- ◆ "The danger of non-disclosure", The Lawyers Weekly, March 29, 2013
- ◆ Arbitrator Disclosure – It's More (and Less) Than the Conflict Search, Lawyers Weekly, March 28, 2013
- ◆ "Balancing the duty to disclose", AdvocateDaily.com, March 26, 2013
- ◆ Proportionality, Case Management and Summary Judgment in the Ontario Courts: Lessons for the Arbitration Community, The Tribunal, Arbitration Place Quarterly Newsletter, January 2013
- ◆ Panellist, International Arbitration Strategies, sponsored by The Canadian Institute of Arbitrators and TCAS, November 1, 2012, Toronto
- ◆ On Being a Commercial Arbitrator: Lessons Learned - Canadian Arbitration and Mediation Journal, Spring/Summer 2012
- ◆ Faculty Member, ICDR Miami 2012 Conference: Dispute Resolution in North America;
- ◆ An Unpredictable Battleground: Twelve Years of the Class Action Carriage Motion in Canada (with Louise Moher), Class Action Symposium, April 2012
- ◆ Appellate Advocacy in the Supreme Court of Canada, Canadian Defence Lawyers Conference, Vancouver, B.C., June 4-5, 2009
- ◆ One Arbitrator or Three? (written with J.L. McDougall), Lawyers Weekly, February 2009
- ◆ The Future of Compensatory, Aggravated and Punitive Damages Post Honda, Employment Law Summit, October 30, 2008
- ◆ Defending a Case for Aggravated and Punitive Damages, Law Society of Upper Canada, June 10, 2008
- ◆ Reflections of a Domestic Commercial Arbitrator, The Advocates' Society of Ontario, 2007
- ◆ Awards, Costs, Appeals in Arbitration, Law Society of Upper Canada, 2007
- ◆ CBA Conference Panel, International Arbitrations, Vancouver, June 2005
- ◆ Practical Advocacy Land Mines – Handling Surprises at Trial, April 19, 2005
- ◆ Reflections on the Charter, Ontario Bar Association, October 15, 2004
- ◆ Privilege Issues and the Barrister's Brief, COMBAR Meeting, Barcelona, Spain, June 4-5, 2004; the American College of Trial Lawyers and the Advocates' Society of Ontario joint conference, April 12, 2004
- ◆ Privilege Issues and the Barrister's Brief, The Advocates' Society (The Art of Persuasion) April 2, 2004, Earl A. Cherniak, K.C. and Christine Snow, and John Lorn McDougall Q.C. and Susan Kushneryk
- ◆ Professionalism at the Crossroads, COMBAR Meeting, Boston, May 31, 2003; The Advocates' Society Fall Convention, Cancun, Mexico, November 2003
- ◆ Selection and Preparation of Experts, The Art & Science of Trial Advocacy, The Advocates' Society American College of Trial Lawyers, May 2, 2003
- ◆ How to Protect Against A Punitive Damage Award, Canadian Institute Insurance Litigation, June 14, 2002
- ◆ Advocacy on Appeal, Ontario Trial Lawyers' Association, October 27, 2001
- ◆ Chippewas of Sarnia Band v. Canada, October 26, 2001, The Canadian Aboriginal Law 2001 Conference, October 25 and 26, 2001

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## MEMBERSHIPS

- ◆ Canadian Bar Association
- ◆ Canadian Institute for the Administration of Justice
- ◆ The Advocates' Society
- ◆ International Association of Jewish Lawyers & Jurists (Canadian Section)
- ◆ Osgoode Society
- ◆ Toronto Lawyers' Club
- ◆ Toronto Lawn Tennis Club
- ◆ Member, Honorary Council, London Health Sciences Foundation, 1998
- ◆ Member and Vice-Chairman, Board of Directors, Victoria Hospital Corporation, 1982-1989

## EDUCATION

- ◆ Osgoode Hall Law School (LLB), 1960
- ◆ Gold Medalist, Osgoode Hall Law School, 1960
- ◆ University of Western Ontario (BA), 1956

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