



Cynthia B. Kuehl

Partner

Health Law, Commercial Litigation, Appellate Advocacy Practice Groups

“Recognized in 2008 as a Rising Star – Canadian Leading Lawyer Under 40 – by Lexpert Magazine”

Contact Information

Direct Phone: 416.601.2363

Direct Fax: 416.867.2433

E-mail: ckuehl@lernalers.ca

Website: www.lernalers.ca

Address: 130 Adelaide St. West, Suite 2400, Toronto, ON M5H 3P5

Areas of Practice

Health Law

Appellate Advocacy

Contractual and Shareholder Disputes

Arbitrations

Employment Law

Noteworthy Cases

Inquiry into Justice Paul Cosgrove - Cynthia assisted Earl A. Cherniak, Q.C., appointed as Independent Counsel by the Canadian Judicial Council ("CJC"), in the response to a constitutional challenge to the *Judges Act* arising in the inquiry into the conduct of Justice Cosgrove. Following the constitutional challenge, Cynthia was involved in the presentation of the case to the Inquiry Committee appointed by the CJC to review the conduct of Justice Cosgrove in hearings held in September, 2008. Cynthia also appeared with Earl before the CJC in a hearing in March, 2009.

Randall et al. v. Koziar (2009, S.C.J.) - Cynthia acted with Anne Spafford as counsel to physicians in a lengthy trial arising from the birth of an injured infant. The trial judge dismissed the action. The matter is now under appeal.

K.K. v. K.W.G. (2008, C.A.) - Cynthia acted with Maia Bent (trial counsel) as appellate counsel, arising from a trial decision which had awarded their client damages against a non-offending parent arising from historic sexual abuse. The Court of Appeal upheld the finding of liability.

Mallais v. Campbell Amusements Inc. (2007, C.A.) - Cynthia acted as appellate counsel for a plaintiff who had unsuccessfully sued an amusement park operator for injuries she alleged had been sustained during a ride. On appeal, the Court of Appeal found that an amusement ride is not a carrier for hire, and is not subject to a higher duty of care. This was the first case in Ontario to have considered whether an amusement ride was a common carrier.

Stoody v. Kennedy et al. (2004, CA) - Cynthia acted for a director and the officers of a corporation at trial and on appeal, arising from a claim of a dismissed employee for oppression. The Court of Appeal agreed with Cynthia's submissions that officers were not personally liable for oppression in the circumstances, and that the director was not liable in oppression as a result of his attendance, as corporate representative, at the prior wrongful dismissal trial. The common law duties of directors and officers are owed to the corporation they serve, not to dismissed employees. Leave to the Supreme Court was dismissed.

Dattels v. IBK et al (2004, Div Ct) - Cynthia acted for the plaintiff on appeal of a lower court decision. The Divisional Court held that a claim to enforce an agreement to resolve a dispute should not be struck on a preliminary basis from a statement of claim which includes, as alternative relief, damages for the underlying dispute

Alakoozi v. Hospital of Sick Children (2004, CA) - Cynthia acted with senior counsel as trial and appeal counsel in respect of a claim against defendant physicians following the death of a child post-tonsillectomy. The Court of Appeal upheld the lower court's decision to dismiss the action in favour of Cynthia's clients.

Hermanns v. Ingle (2001, CA) - Cynthia acted with senior counsel on the appeal of a trial judgment which had found largely in favour of clients. In addition to maintaining favorable aspects of the judgment, the Court of Appeal also found a breach of fiduciary duty arising from a receivership and granted a tracing remedy in favour of Cynthia's clients.

Professional Experience

Partner, Lerner LLP (2007)
Associate lawyer, Lerner LLP (2000 to 2007)
Articling student, Lerner LLP (1998-1999)

Achievements

Recognized by Lexpert as a "Rising Star" – Canadian Leading Lawyers Under 40 (2008)
Named by Lexpert as a "Litigator to Watch" in its US Guide to the Leading Cross-Border Litigators (2008)
Numerous prizes for academic excellence at law school, including receipt of the Dean's Key

A Selection of Presentations/Publications

"Interpreting standards of proof and review in health law" The Lawyers Weekly, May 1, 2009
([click here for article](#))

"How to go for broke – without going broke – on appeal", co-authored with Jasmine Akbarali, The Lawyers Weekly, August 28, 2008 ([click here for article](#))

"Clinical Trials: Legal and Ethical Implications of Human Research", co-authored with Brian Butler, presented at the Canadian Institute, April 4, 2000.

Memberships and Affiliates

Medico-Legal Society of Toronto, Council Member (2009)
Ontario Bar Association Health Law Section, Executive Member (2008-2009)
The Advocates' Society
Ontario Bar Association
Young Canadian Arbitration Practitioners

Education

Masters of Laws, in Health Law (2006)
Admitted to Ontario Bar (2000)
Bachelor of Laws, The University of Toronto (1998)
Bachelor of Arts (Major in English and History), Trent University, Peterborough (1995)

Personal Information

Cynthia is active in the community, sitting on the Board of Bond Street Nursery School, a not-for-profit education and resource centre for children from the Regent Park and St. Jamestown neighbourhoods. Cynthia has been the Secretary of the Board since 2007, and is a member of the Board's Strategic Planning initiative.

In her spare time, Cynthia enjoys spending time with her family, reading and travel.

