

# LISA C. MUNRO, Q.ARB

## Commercial Litigation

PARTNER

*"For most of my clients, litigation is a business problem that requires a business solution. They need advice that goes beyond their legal rights, risks, and remedies and provides them with practical, efficient, resolution strategies."*

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### PROFESSIONAL HISTORY

- ◆ Managing Partner, Lerners LLP Toronto office (2018 to 2019)
- ◆ Chair, Diversity and Inclusion Committee (2017 to 2019)
- ◆ Executive Committee Member, Lerners LLP (2007 to 2019)
- ◆ Practice Group Leader, Lerners LLP Toronto Commercial Litigation Practice Group (2004 to 2006)
- ◆ Partner, Lerners LLP (2001 to present)
- ◆ Chair, Student Committee, Lerners LLP (2001 to 2004)
- ◆ Associate lawyer, Lerners LLP (1994 to 2000)
- ◆ Articling student, Lerners LLP (1992 to 1993)

### AREAS OF FOCUS

- ◆ Business and contractual disputes
- ◆ Commercial arbitrations
- ◆ Shareholder disputes, oppression remedy claims
- ◆ Commercial tenancies & real estate disputes
- ◆ Directors' and officers' liability
- ◆ Banking litigation

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130 Adelaide Street West, Suite 2400 Toronto, ON M5H 3P5

- ◆ Transnational law, enforcement of foreign judgments, and letters rogatory
- ◆ Accountants' and auditors' liability

## NOTEWORTHY CASES

- ◆ Current highlights:
  - ◆ Commercial lease dispute on behalf of tenant which claims landlord charged improper costs as "Additional Rent" under lease.
  - ◆ Negligence claim on behalf of mid-sized accounting firm sued by a creditor of client alleging negligence in performance of audits.
  - ◆ Oppression remedy claim on behalf of one family member sued by another in respect of allegations of wrongdoing in activities of family business.
  - ◆ Breach of contract and breach of good faith obligation claim on behalf of officer, director, and shareholder of a corporation by a party claiming to have been an investor.
  - ◆ Claim against life insurer for relief against forfeiture based upon allegations that insurer could not cancel policy based upon contract and estoppel principles.
- ◆ Shareholder remedies:
  - ◆ *Hames v Greenberg*, 2014 ONSC 245. Counsel for plaintiff director, officer, and shareholder alleging oppressive conduct against majority shareholders. Motion to disqualify defendants' counsel from acting for both individuals and corporation.
- ◆ Directors' and officers' liability:
  - ◆ *Re Hollinger Inc.*, 2011 ONSC 1205; 2011 ONCA 579; and 2012 ONSC 5107. Co-counsel for one of interested parties who opposed a sealing/confidentiality order which prohibited disclosure of certain terms of settlement on the basis that disclosure was required to allow him to make submissions on whether court should approve settlement as fair and reasonable to all interested parties.
  - ◆ *Steven Drover et al v. Argus Corporation et al.* Court file No. 04-CV-028645 (unreported, July, 2009). Counsel for defendant in class action brought against former directors and officers of Hollinger related companies.
- ◆ Cross-border issues:
  - ◆ *Conrad Black v Richard C. Breeden et al*, [2009] O.J. No. 1292 (S.C.J.); appeal denied 2010 ONCA 547; leave granted [2010] SCCA 387. Co-counsel for plaintiff in a defamation action, responding to motion and appeal challenging the jurisdiction of the Ontario courts.
  - ◆ *Sun-Times Media Group, Inc. v Conrad Black*, 2007 CarswellOnt 3912 (S.C.J.). Co-counsel for defendant opposing Mareva injunction to freeze his assets.
  - ◆ *Re Ravelston Corp.*, 2007 CarswellOnt 755 and 661 (S.C.J.). Co-counsel for a party with an interest in these bankruptcy proceedings, who opposed the corporation's guilty plea to U.S. fraud charges.
  - ◆ *Hollinger International Inc. v. Hollinger Inc.*, [2004] O.J. No. 3464 (S.C.J.). Decision denying anti-suit injunction brought against plaintiff and granting stay of counterclaim on the basis that the matters in issue are more properly to be determined in ongoing litigation in the United States.
  - ◆ *Royal Trust Corp. v. Fisherman* (2000), 49 O.R. (3d) 187 (S.C.J.); leave refused, [2000] O.J. No. 4245 (Div. Ct.). Represented plaintiffs in responding to a motion brought by defendant for a stay of the action on grounds that his rights to a fair criminal trial in the United States under the Fifth Amendment of the United States Constitution would be prejudiced by Ontario civil proceedings.
- ◆ Banking:
  - ◆ *Royal Bank of Canada v. Société Générale (Canada) et al*, [2005] O.J. No. 4950 (S.C.J.); leave to appeal granted, [2006] O.J. No. 749 (Div. Ct.); appeal granted 2006 CarswellOnt 8091 (C.A.). Co-counsel for plaintiff in responding to summary judgment motions brought by defendants in action for losses in excess of \$90 million as a result of one of the largest and most protracted frauds in Canadian banking history perpetrated against defendant financial institutions.

- ◆ *Toronto-Dominion Bank v. Leigh Instruments Limited (Trustee of)* (1998), 40 B.L.R. (2d) 1 (Ont. Gen. Div.); affirmed (1999), 45 O.R. (3d) 417 (C.A.). Part of a team of trial counsel representing a corporate defendant being sued by a bank upon a letter of comfort. Interlocutory motions during the trial are reported at 35 O.R. (3d) 273 [issue estoppel], 32 O.R. (3d) 575 [lawyer's work product privilege and waiver], 33 O.R. (3d) 696 [income tax treatment of losses], and 35 O.R. (3d) 369 [calling an adverse party as a witness at trial].
- ◆ Other:
  - ◆ *Aboriginal law - Kingspan Insulated Panels Ltd. v. Brantford (City)*, 2010 ONSC 4610; leave refused, 2011 ONSC 265. Counsel for defendant who brought motion for summary judgment dismissing claims arising out of aboriginal protests on property following purchase and sale transaction.
  - ◆ *Asset-Backed Commercial Paper - ATB Financial v Metcalfe & Mansfield Alternative Investments II Corp.* [2008] O.J. No. 2265; aff'd 2008 CarswellOnt 4811 (C.A.). Counsel for investors in asset-backed commercial paper restructuring.
  - ◆ *Securities class action - Royal Trust Corp. v. Fisherman* (2001), 55 O.R. (3d) 794 (C.A.). Co-counsel for the plaintiffs in a class action for misrepresentation pursuant to s. 130 of the Ontario Securities Act brought by shareholders of YBM Magnex International, Inc., who purchased their shares pursuant to a prospectus and suffered a loss. Motion to determine whether report prepared by YBM's receiver analyzing causes of action was protected from disclosure to others by common interest privilege. Decision and order granting certification and approving terms of settlement in first major securities class action settlement in Canada at [2002] O.J. No. 1855 (S.C.J.).
  - ◆ *Consumer boycott - Daishowa Inc. v. Friends of the Lubicon* (1998), 39 O.R. (3d) 620 (Gen. Div.). Trial co-counsel to a subsidiary of a major pulp and paper company seeking an injunction restraining secondary picketing and interference with economic relations as part of a consumer boycott.
  - ◆ *Privacy - Canadian AIDS Society v. Ontario* (1995), 25 O.R. (3d) 388 (Gen. Div.). Represented the Canadian Red Cross Society in a case dealing with the constitutionality of testing of blood samples for the HIV virus without donor consent.
- ◆ *Commission of Inquiry on the Blood System in Canada* (1993-1997). Part of a counsel team which represented the Canadian Red Cross Society at the Commission of Inquiry.

## ACHIEVEMENTS

- ◆ Awards:
  - ◆ Benchmark Canada 2018 Litigation Star
  - ◆ Selected by "Women's Executive Network" as one of Canada's Most Powerful Women: Top 100 (2017)
  - ◆ Selected by peers for inclusion in Best Lawyers in Canada for corporate and commercial litigation, alternative dispute resolution and class action litigation (2015 to 2020)
  - ◆ Recognized and recommended by Lexpert as a leading cross-border lawyer for corporate commercial litigation, Lexpert Guide to the Leading US/Canada Cross-Border Litigation Lawyers in Canada (2016)
  - ◆ Selected by peers for inclusion in Canadian Legal Lexpert Directory for corporate commercial litigation (2016, 2018-2019)
  - ◆ Ranked by Lexpert Directory as "consistently recommended" (2016)
  - ◆ Lexpert Zenith Award for Diversity and Inclusion (2016)
  - ◆ Selected by "Diversity Journal" as a recipient of its 2015 Women Worth Watching Award
  - ◆ Scouts Canada Medal for Good Service (2006)
- ◆ Committees/boards:
  - ◆ Member, CBA Entity Regulation Working Group (2015)
  - ◆ Toronto Commercial Arbitration Society (2011 to present)
    - ◆ Co-Chair, Executive Committee (2014 to 2017)

- ◆ Chair, Strategic Planning Committee (2015 to 2016)
- ◆ Member Program Committee (2011 to 2014)
- ◆ Board of Directors, Greater Toronto Scout Foundation (2014 to present)
- ◆ Honourary Legal Counsel, Scouts Canada, Greater Toronto Council (2002 to 2013)

## SELECTED PRESENTATIONS/PUBLICATIONS

- ◆ Diversity and Inclusion:
  - ◆ Speaker, Rotman Commerce Women In Business: Women's Leadership Symposium, March 4, 2017
  - ◆ "Diversity in the Legal Profession: Gender Parity and Diversity in Private Practice" (Speaker, webinar offered by Philippe Kirsch Institute in 2015)
  - ◆ Mentor, OBA Women Lawyers Forum Young Women in Law event, "Speed Mentoring", June 25, 2015
  - ◆ "[Will you be my Mentor? - How to cultivate the Mentor/Mentee Relationship](#)", interview with Ontario Bar Association, May 27, 2015
  - ◆ Speaker, OBA Women Lawyers Forum Young Women in Law event, "Leaning in: Taking control of your career with Negotiation Tips and Tricks from Experts", January 22, 2015
  - ◆ "Tips for resolving conflicts" (Presented at Career Women Interaction Conference Leadership for Women Lawyers, May 7, 2013)
- ◆ Arbitration/alternative dispute resolution:
  - ◆ Co-Chair, Chartered Institute of Arbitrators 2019 Annual Symposium (September 19, 2019)
  - ◆ Speaker, "International Arbitration and Toronto: Past, present and future" (Toronto Commercial Arbitration Society Annual Conference and AGM, May 2019)
  - ◆ Speaker, "Advocacy in Arbitration: An Overview" (The Advocates' Society Program "ADR Advocacy: Advanced Techniques", December 11, 2018)
  - ◆ Speaker, "How Best to Represent Your Clients" (Ontario Bar Association Program, "Valuable Strategies for Mediating Multi-Party Disputes", October 30, 2018)
  - ◆ Co-Chair, Chartered Institute of Arbitrators 2018 Annual Symposium (September 20, 2018)
  - ◆ Speaker, "Drafting Offers to Settle and Minutes of Settlement: Avoiding Common Pitfalls" (Osgoode Professional Development Program "Successful Settlements", March 24, 2017)
  - ◆ Speaker, "Drafting Arbitration Clauses" (Law Society of Upper Canada conference, "A Primer on Arbitration: For Litigators", April 5, 2016)
  - ◆ "Successful Settlements" (Moderator on topic of "When Settlement is or isn't a good thing", Osgoode Professional Development Program, November 26, 2015)
  - ◆ National and International Developments in Arbitration Law and Practice Panel (Moderator, Toronto Commercial Arbitration Society Annual Conference, April 30, 2015)
- ◆ Cross-border issues:
  - ◆ "Cross-border Litigation in Canada: What U.S. Lawyers Need to Know" (Speaker on topic of risk of loss of privilege against self-incrimination, The Knowledge Group Program, December, 2015)
  - ◆ "Defending Canada's Reputation as a Libel Tourist Destination" (Presented at Dalhousie University, Schulich School of Law, conference called, "Speech on the Internet: Danger Ahead?" held February 16, 2012)
  - ◆ "Jeopardy to the Privilege Against Self-Incrimination in Cross-Border Proceedings" (Presenter at Federated Press Conference, 6th Directors' & Officers' Liability Conference, March 22 and 23, 2011)
  - ◆ "Cross-border witnesses risk loss of Charter protection", *The Lawyers Weekly*, August 27, 2010.

- ◆ "Jeopardy to the Privilege Against Self-Incrimination in Cross-Border Proceedings" (Paper presented at the Osgoode Hall Law School Professional Development Conference, Litigating Commercial Disputes, June 15 and 16, 2010)
- ◆ "Jeopardy to the Privilege Against Self-Incrimination in Cross-Border Proceedings" (Presenter at Federated Press Conference, 5th Directors' & Officers' Liability Conference, March 2 and 3, 2010)
- ◆ Shareholder disputes/oppression remedy claims:
  - ◆ Co-Chair, "Shareholder Disputes and the Closely-Held Company" (Osgoode Professional Development Program, April 20, 2017)
  - ◆ "Breaking the Bonds of Boilerplate - Oppression Remedy Claim and Defence Precedents" (Speaker, Law Society of Upper Canada programme, June 16, 2015)
  - ◆ Co-Chair, "Shareholder Litigation and the Closely-Held Corporation" (Osgoode Hall Professional Development Program, April 7, 2015)
- ◆ Auditors' liability:
  - ◆ "The spectre of indeterminate litigation? Developments in auditors' common law liability in negligent misrepresentation to those outside the typical client engagement" in *Annual Review of Civil Litigation 2013* (2013, Thomson Canada Limited)
- ◆ Other issues:
  - ◆ Panelist, "Putting Your Best Foot Forward in Court", (A Step-by-Step Guide to Bringing a Motion, Law Society of Ontario, April 30, 2019)
  - ◆ Speaker, "Hearsay, Prior Inconsistent Statements and the Rule in *Browne v. Dunn*", (The Civil Litigators Survival Guide to Evidence, Osgoode Professional Development Program, April 15, 2019)
  - ◆ Co-chair and Speaker, "Practice Management for Litigators" (Law Society of Upper Canada Program, November 27, 2017)
  - ◆ "Ethical and Professional Issues in Shareholder Disputes and Litigation" (Presented at Osgoode Professional Development Program, April 20, 2017)
  - ◆ "The Civil Litigator's Survival Guide to Evidence: Hearsay and Impeachment (Prior Inconsistent Statements and the Rule in *Browne v Dunn*)" (Presented at Osgoode Professional Development Program, April 14, 2016)
  - ◆ "Top 10 Tips For Avoiding Negligence Claims" (Presented at Advocates' Society Practice Management Program, May 23, 2014)
  - ◆ "Sealing Orders and the Exception to the Open Court Principle"(Speaker at LSUC Conference Mastering the Art of Complex Civil Motions, March 31, 2011)
  - ◆ "Maximizing Results in Examinations for Discovery" (Panel Member at Insight Conference held June 13, 2007)
- ◆ Class actions:
  - ◆ "Who Can Be a Representative Plaintiff Under Ontario's *Class Proceedings Act, 1992*?" (Presented at Canadian Institute Conference, Litigating Class Actions, Toronto, September 30, 2004)
  - ◆ "YBM Case Study: Anatomy of a Securities Class Action Settlement" (Presented at Canadian Institute Conference, Litigating Class Actions, Toronto, October 1, 2003)
  - ◆ "How to Effectively Handle a Class Action Certification Motion" (Prepared for Pre-Conference Workshop at Canadian Institute Conference, Litigating Class Actions, Toronto, September 29, 2003)

## MEMBERSHIPS

- ◆ Member, Chartered Institute of Arbitrators (MCIArb)
- ◆ ADR Institute of Canada/Ontario
- ◆ Fellow, Litigation Counsel of America

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- ◆ Toronto Commercial Arbitration Society
- ◆ Toronto Lawyers Association
- ◆ The Advocates' Society
- ◆ Ontario Bar Association

## EDUCATION

- ◆ Qualified Arbitrator Designation (QArb), ADRIC
- ◆ Admitted to Ontario Bar (1994)
- ◆ Bachelor of Laws, The University of Western Ontario (1992)