

# WILLIAM E. PEPALL

*Dispute Resolution and Advocacy*

**PARTNER**

*"The harder I work, the luckier I get."*

**Direct Phone:** 416.601.2352  
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## PROFESSIONAL HISTORY

- ◆ Partner, Lerners LLP (2009 – present)
- ◆ Partner, Heenan Blaikie LLP (2000 – 2009) (Executive Committee)
- ◆ Founder and Partner, Genest Murray (1987 – 2000) (Executive Committee, Practice Group Leader)
- ◆ Partner, Cassels, Brock (1981 – 1987) (Executive Committee)

## AREAS OF FOCUS

- ◆ Business and Contractual Disputes
- ◆ Administrative and Public Law, Tribunals and Commissions
- ◆ Commercial Arbitrations
- ◆ Securities Investment Dealer, Financial Advisor Negligence, and Discipline
- ◆ Shareholder Disputes
- ◆ Professional Negligence and Discipline
- ◆ Directors' and Officers' Liability
- ◆ Bankruptcy, Insolvency and Creditor Remedies
- ◆ Civil and Regulatory Proceedings under the Competition Act

Mr. Pepall has, for over 30 years, specialized in the field of civil litigation. He has pleaded cases before all levels of court in Ontario and before the Supreme Court of Canada and the Federal Court. Special appearances have been made before the SEC, the OSC, the Estey Inquiry into Banking, and courts in Manitoba, South Carolina, California and British Columbia. Mr. Pepall has broad and diverse experience in the civil litigation field. He has developed particular expertise in the representation of lawyers, accountants and directors and officers in malpractice, discipline and securities claims.

Mr. Pepall has delivered numerous papers and lectures to, inter alia, Queen's University Law School, the Advocates' Society, The Ontario Bar Admission Course, the 12 Minute Securities Lawyer, and Osgoode Hall Continuing Education.

## NOTEWORTHY CASES

- ◆ Acting for a mid-sized firm of accountants defending an action by a bank, which was a creditor of a now bankrupt corporation, seeking millions of dollars in damages and alleging that the accounting firm was negligent in the performance of its audit of that corporation.
- ◆ Acting for a large firm of accountants defending allegations of auditors' negligence in the audit of the financial statements of a private company.
- ◆ Acting for a large law firm defending an action for damages for defamation and other economic torts in a case in which the issue of absolute privilege will be considered.
- ◆ Successfully defended a family law lawyer against a claim for indemnity arising out of an alleged error in the drafting of a marriage contract and had the marriage contract set aside on grounds of mistake.
- ◆ Representation of many of Canada's most prominent law firms in the defence of liability claims.
- ◆ Representation of Nortel Former Employee Representatives in Nortel CCAA litigation.
- ◆ Representation of the liquidator of a major trust company and the federal deposit insurer in a \$500 million tort claim against the former directors, officers, auditors and controlling shareholders of a trust company.

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- ◆ Representation of the liquidator of a major trust company in an action which raised novel issues of interpretation and public policy concerning s. 100 of the Bankruptcy Act.
- ◆ Representation of a major accounting firm in securities class actions in the United States.
- ◆ Representation of a major accounting firm in audit, accounting and tax negligence cases across Canada.
- ◆ Representation of the auditor in the defence of a major securities action in Winnipeg.
- ◆ Representation of some of Canada's largest law firms in the defence of claims.
- ◆ Representation of individual directors before the Estey inquiry into the collapse of the Canadian Commercial Bank and Northland Bank.
- ◆ Application by the director for the shareholder's oppression remedy under the Canada Business Corporations Act, arising out of Campeau's 1980 take-over bid for Royal Trustco.
- ◆ Representation of both plaintiffs and defendants in class proceedings involving commercial and securities issues.
- ◆ Representation at trial and on appeal of a successful plaintiff who had suffered a stroke caused by oral contraceptives.
- ◆ Representation on appeal of a successful plaintiff who was granted the largest non-pecuniary loss under the Family Law Reform Act.
- ◆ Representation of stage, film and recording artists in litigation matters.
- ◆ Representation of the University of Toronto in various employment and academic issues.
- ◆ Frequent appearances as counsel at mediation and arbitration

## RECENT CASES

- ◆ Successful defence of law firm in action to set aside a marriage contract on grounds of mistake (*Stevens v. Stevens*, 2012 ONSC 706)
- ◆ Successful defence of fund manager in oppression/breach of duty claim (*Lazey Partners Ltd. v. Strategic Energy Management Corp.*, 2011 ONSC 6348)
- ◆ Summary dismissal of negligence claim against law firm (*Royal Laser Corp. et al v. Cassels, Brock & Blackwell*, 2012 ONSC 1170)
- ◆ *Ontario (Attorney General) v. Contents of Bank Accounts (in rem)*, 2021 ONSC 8304: Acted for defendant bank account owners in successfully resisting a forfeiture application under the *Civil Remedies Act*
- ◆ *Smith v. Arsenault-Smith*, 2019 ONSC 3600: Acted for the successful respondent in an appeal of an arbitration decision relating to the obligation to make full and honest disclosure in a family law dispute
- ◆ Acted for the Law Society of Ontario in litigation arising out of its conduct of an investigation and professional discipline proceedings

## SELECTED PRESENTATIONS/PUBLICATIONS

- ◆ "OSC decision shows severity of penalties for illegal insider trading", AdvocateDaily.com, May, 2013
- ◆ "Case shows institutional investors may want more than passive role in class actions", AdvocateDaily.com, April, 2013
- ◆ "Livent case could set precedent if "equal fault" defence is applied", AdvocateDaily.com, April 2013

## ACHIEVEMENTS

- ◆ Certified as a Specialist in Civil Litigation by the Law Society of Ontario
- ◆ Benchmark Canada, Litigation Star (2017-2020) - Recognized in the following areas: Appellate, Class Actions and Commercial (2017-2020); Dispute Resolution (2020)
- ◆ Recognized as a leading litigator in the Lexpert Special Edition - Canada's Leading Litigation Lawyers (2018-2019)
- ◆ Recognized and recommended by Lexpert as a leading lawyer in the area of professional liability, corporate commercial litigation, director & officer liability and securities litigation (2011-2018); corporate commercial litigation and professional liability (2019-2021)
- ◆ Recognized and recommended by Lexpert as a leading cross-border lawyer in the area of corporate commercial litigation, Lexpert Guide to the Leading US/Canada Cross-Border Litigation Lawyers in Canada (2016, 2014)
- ◆ Recognized as one of Canada's leading lawyers in the area of director and officer liability practice, corporate and commercial litigation, legal malpractice law, class action litigation, and professional malpractice law in Best Lawyers in Canada (Woodward/White)
- ◆ Designated as Preferred Counsel by Lawyers' Professional Indemnity Company

## MEMBERSHIPS

- ◆ Member, The Advocates' Society
- ◆ Member, Canadian Bar Association

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- ◆ Member, Lawyers' Club
- ◆ Member, The Law Society of Ontario
- ◆ Member, Toronto Lawyers Association

## EDUCATION

- ◆ Master of Laws, Securities Law, Osgoode Hall Law School, 2003
- ◆ Bachelor of Laws, Queen's University, 1974
- ◆ Bachelor of Arts, University of Toronto, 1971

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