

# C. KIRK BOGGS

## Insurance Defence

PARTNER

*"Successfully defending any case involves careful preparation and detective work from day one. Anticipating and addressing all weaknesses that Plaintiff's counsel will try to exploit is key. It's very rewarding to prepare a defence strategy then see the case ultimately resolve months or even years later as planned."*

**Direct Phone:** 416.601.2367  
**Direct Fax:** 416.867.2426  
**Email:** [kboggs@lerners.ca](mailto:kboggs@lerners.ca)  
**Website:** [www.lerners.ca](http://www.lerners.ca)



### PROFESSIONAL HISTORY

- ◆ Partner, Lerners LLP (1994 to present)

### AREAS OF FOCUS

- ◆ Motor vehicle claims
- ◆ Municipality liability
- ◆ Public entity defence
- ◆ Professional negligence claims
- ◆ Property damage claims
- ◆ Statutory accident benefits
- ◆ Insurance fraud
- ◆ General & commercial liability
- ◆ E&O claims
- ◆ Policy interpretation
- ◆ Trial and appellate work in the insurance and personal injury areas, involving personal and commercial lines, fire claims, municipalities, public authorities, and automobile related claims.

### NOTEWORTHY CASES

- ◆ 495793 Ontario Ltd. (Central Auto Parts) v. Barclay – Represented the appellant, the Thunder Bay Police Services Board at the Ontario Court of Appeal in an action brought by a civilian alleging negligent investigation. Successfully had \$1.6 million judgment set aside.
- ◆ Myers-Gordon v. Martin, 2014 ONCA 767 (CanLII), affirming 2013 ONSC 4331 (CanLII)
- ◆ Romaine v. Johnson, 2013 ONCA 23 (CanLII), affirming 2012 ONSC 3449 (CanLII)
- ◆ Barbe-Langevin v. Brasseur, 2013 ONSC 1689 (CanLII)
- ◆ Dinunzio v. Hamilton (City), 2011 ONCA 65 (CanLII), affirming 2010 ONSC 3631 (CanLII)
- ◆ Deering v. Scugog (Township), 2010 ONSC 5502 (CanLII)
- ◆ Herbert v. Brantford (City), 2010 ONSC 2681 (CanLII)
- ◆ R.E. v. Wawanesa Mutual Insurance Company (2007), 84 O.R. (3d) 668 (C.A.)
- ◆ Heasman v. Durham, 204 O.A.C. 283, [2005] CarswellOnt 6879, [2005] O.J. No. 5096 (C.A.), affirming [2004] O.J. 1744, [2004] CarswellOnt 1675

**LERNERS**  
LAWYERS

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225 King Street West, Suite 1500 Toronto, ON M5V 3M2

Ont. (S.C.)

- ◆ McLaren v. Stratford (City), [2005] O.J. No. 2288 (S.C.), [2004] O.J. No. 2919 (S.C.)
- ◆ Goreman v. Falardeau, [2005] O.J. No. 2213 (C.A.)
- ◆ Maple Valley Acres Ltd. v. CIBC, [2003] O.J. No. 4387 (C.A.), affirming (2001), 46 R.P.R. (3d) 32
- ◆ YMCA of Hamilton-Burlington v. 331783 Ontario Ltd., [2003] O.J. No. 2201 (C.A.), affirming 2001 Carswell Ont. 3745
- ◆ Lyons v. Gore Mutual (2000), 51 O.R. (3d) 528
- ◆ Greenaway v. Ministry of Transportation (1999), 44 O.R.(3d)296
- ◆ Gore Mutual v. Co-operators; Warwick v. Gore Mutual (1997), 32 O.R. (3d) 76 (C.A.)
- ◆ Knudsen v. Holmes (1996), 26 O.R. (3d) 786
- ◆ Mero v. Regional Municipality of Waterloo (1992), 70 O.R. (3d) 102 (C.A.), affirming (1990) 69 O.R. (2d) 375
- ◆ Brazzoni v. City of Timmins (1992), O.J. No. 254 (C.A.)
- ◆ Von Cramm v. Riverside Hospital of Ottawa (1986), 56 O.R. (2d) 700 (C.A.)

## ACHIEVEMENTS

- ◆ Certified as a Specialist in Civil Litigation by the Law Society of Ontario
- ◆ Nominated by peers and appeared as a leading practitioner in the Insurance and Reinsurance Expert Guide, published by Legal Media Group (2021)
- ◆ Ontario Bar Association Award for Excellence in Insurance Law (2018)
- ◆ Recognized in the Lexpert/Report on Business Special Edition: Canada's Leading Litigation Lawyers (2018-2019)
- ◆ Senior Fellow, Litigation Counsel of America (2017); Fellow (2009)
- ◆ Recognized as a leading practitioner by Lexpert in the areas of litigation - commercial insurance, medical negligence and professional liability (2002-2022)
- ◆ Recognized and selected as one of "The Best Lawyers in Canada" in the areas of health care law, insurance law, appellate practice, medical negligence and personal injury litigation

## SELECTED PRESENTATIONS/PUBLICATIONS

- ◆ Speaker, "GPS and Its Admissibility in Court", Association of Municipalities Ontario/Frank Cowan Company Municipal Risk Management Symposium, September 12, 2019
- ◆ Co-chair and speaker, "Jane Doe Revisited - Consequences for Municipal and Provincial Policing", 25th Annual Provincial/Municipal Government Liability Conference, The Canadian Institute, April 2-3, 2019
- ◆ Quoted in Public Sector Digest article, "Reducing Cost & Avoiding Liability: The Importance Of Detailed Records And Documentation For Municipalities", November 2018
- ◆ Co-author with Stuart Zacharias, "*Hill v. Hamilton-Wentworth Regional Police Services Board: A Review of the Tort of Negligent Police Investigation 10 Years Later*", Municipal Liability Risk Management, May 2017 ([Read article](#))
- ◆ Some Tips So You Can Avoid Having to Hire Me, The Advocates' Society, Tricks of the Trade 2014
- ◆ Boundary Roads – Everybody Has Them and Nobody Wants Them, Society of Public Insurance Administrators of Ontario 2014 Fall Conference
- ◆ Update on Minimum Standards in Road Authority Claims, The Oatley McLeish Guide to Motor Vehicle Litigation Program, Law Society of Upper Canada, March 26, 2014
- ◆ Panel member, Expert Evidence in Personal Injury Cases, Winning Strategies and Techniques, Osgoode Professional Development Program, April 20, 2013
- ◆ Back to Basics: Attempting to Make Sure a Trial Judge Applies the Proper Analysis to Cases Alleging Non-Repair of a Roadway, Canadian Institute's 19th Annual Conference on Provincial and Municipal Government Liability, 2013
- ◆ Liability Issues Associated with Recreational Trails, with S. Zacharias, Provincial and Municipal Liability Course, Federated Press, 2011
- ◆ Road Liability: Getting Up to Speed on Case Law Developments, Canadian Institute Conference on Provincial/Municipal Liability, 2011
- ◆ Avoiding "virtual contests": The proper role of demonstrative evidence in the fact-finding exercise, with S. Zacharias, Canadian Institute Conference on Personal Injury Law, 2010
- ◆ Student Bullying – OTLA Conference on Tort Issues, 2008
- ◆ Minimum Maintenance Standards and the Municipal Act, 2001: Lessons Learned from Recent Decision in Thornhill (Litigation Guardian of) v. Shadid, with Meredith Jones, LSUC Special Lectures on Personal Injury Law, 2008
- ◆ Responding to a Claim for Future Care, Practical Strategies for Winning Auto Cases, Tricks of the Trade 2007, Advocates Society

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- ◆ Defending a Claim for Future Economic Loss, Canadian Institute Conference on Litigating Personal Injury Damages, 2007
- ◆ The Minimum Maintenance Standards Defence – Beyond Thornhill (Litigation Guardian of) v. Shadid, Canadian Institute Conference on Provincial/Municipal Liability 2007
- ◆ Road Liability: Getting Up to Speed on Case Law Developments, Canadian Institute Conference on Provincial/Municipal Liability, 2006
- ◆ Police Liability: Greater Risks, Growing Lawsuits, The Canadian Institute Provincial/Municipal Government Liability Conference, February 2004
- ◆ Liability Problems Arising From Emergency Services Response, The Canadian Institute Provincial/Municipal Government Liability Conference, February 2003
- ◆ Liability Arising From Response to Fires, September 14, 2002, published Without Prejudice Magazine (2003)
- ◆ Where Have All the Playgrounds Gone? An Update on Occupiers' Liability, The Canadian Institute Provincial/Municipal Government Liability Conference, February 2001
- ◆ Determining Proximate Cause: Does it Depend On What the Judge Had For Breakfast? The Canadian Institute Insurance Coverage Dispute Conference, May 2000
- ◆ Policing in Ontario: Strategies for the New Millennium, The Canadian Institute Provincial/Municipal Government Liability Conference, February 2000

## MEMBERSHIPS

- ◆ Canadian Bar Association
- ◆ Canadian Defence Lawyers
- ◆ The Defence Research Institute
- ◆ The Toronto Lawyers' Club
- ◆ Toronto Lawyers' Association

## EDUCATION

- ◆ Admitted to Ontario Bar (1984)
- ◆ Bachelor of Laws, Osgoode Hall (1982)