

# NADIA MAROTTA

Insurance Defence

PARTNER

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## REPRESENTATIVE WORK

Nadia is an advocate and trusted legal advisor in health law, insurance defence, and commercial and specialty insurance coverage.

Nadia defends health professionals in civil lawsuits involving negligence, informed consent, human rights, and privacy issues. She also has a broad regulatory practice, assisting health professionals with matters before their professional Colleges, prosecuting discipline cases on behalf of Colleges, and acting as independent legal counsel in discipline proceedings. Nadia provides advice and counsel to health professionals on a broad range of issues, including privacy breaches, consent and capacity, medical assistance in dying, and hospital privileges.

With an insurance defence practice that involves a wide-range of tort litigation – including professional negligence, occupiers' liability, municipal liability, property damage claims, and motor vehicle accidents – Nadia applies a strategic approach to achieving her clients' goals. In occupiers' liability matters, Nadia has special expertise in the sports and recreation context, including the use and enforceability of liability waivers. In professional negligence matters, she regularly defends police officers, firefighters, and paramedics, and has been involved in coroner's inquests involving fire fatalities and police use of force.

Nadia provides comprehensive and practical advice on coverage issues arising from D&O, E&O, cyber, and fidelity policies, including financial institution bonds and commercial crime. When coverage issues escalate to litigation, she has experience defending legal actions and coverage applications, including in high-profile coverage disputes involving financial institutions and multi-national corporations. She assists insurers in Canada, the United States, and the United Kingdom in multi-jurisdictional disputes involving complex insurance towers with millions of dollars in coverage at stake.

## NOTEWORTHY CASES

- ◆ *Arksey v. Sky Zone Toronto* (2021 ONSC 4594) – Summary judgment dismissing a personal injury action on the basis of a liability waiver signed by the plaintiff
- ◆ *Ihenyen v. Durham Regional Police Services Board* (2021 ONSC 3877) – Successful motion to enforce a settlement by compelling a self-represented plaintiff to sign a release
- ◆ *Bernatchez v. Barrie Police Services Board* (2019 ONSC 4607 and 2019 ONSC 4881) – Successful motion for production of witness statements from the Special Investigations Unit
- ◆ *DeCaries v. State Farm* (2019 FCA 50) – Dismissal of a medical negligence action that was erroneously brought in the Federal Court
- ◆ *Watton v. Barrie Police Services Board* (2018 ONSC 2094) – Summary judgment dismissing a malicious prosecution action that was brought against a police force
- ◆ *Babjak v. Karas* (2018 ONSC 2093) – Summary judgment dismissing a negligence claim against an ophthalmologist on the basis of an expired limitation period
- ◆ *McCain v. Melanson* (2016 ONSC 6350) – Intervention in a matrimonial proceeding to prevent the wife from filing inadmissible evidence about a physician
- ◆ *Thomson v. Durham Police Services Board* (2017 ONCA 958) – Summary judgment dismissing an action brought against a police force for property damage and loss
- ◆ *Azzeh v. Legendre* (2017 ONCA 385) – Dismissal of an infant's claim against a municipal road authority on the basis of the notice period in the *Municipal Act, 2001*
- ◆ *Inquest into the Deaths of Twiddy, Towie, and Harrison* (2016) – Counsel for a fire department in a coroner's inquest that focused on 911 communications, fire suppression, and fire prevention issues
- ◆ *Colin v. Tan* (2016 ONSC 1187) – Dismissal of a negligence claim against an orthopedic surgeon on the basis of an expired limitation period
- ◆ *Larman v. Mount Sinai Hospital* (2014 ONCA 923) – Dismissal of a negligence claim against several orthopedic surgeons given the lack of expert evidence to substantiate the claim

## SPEAKING ENGAGEMENTS

- ◆ *Liability for your Trip, Slip and Fall Cases* - Speaker, Colloquium 2021 (October 21, 2021)
- ◆ *The Moore Decision: Outlier or New Normal* - Chair, Canadian Defence Lawyers Program (September 29, 2021)
- ◆ *Using Waivers Effectively* - Speaker, Canadian Lawyer Program (January 27, 2021)
- ◆ *Mastering Summary Judgment Motions* - Speaker, Ontario Bar Association Program (October 27, 2020)
- ◆ *Privacy Guidelines and Best Practices* - Panel Moderator, Ontario Bar Association (February 7, 2019)
- ◆ *Coroner's Inquests: Risk Management Strategies for Municipalities* - Speaker, International Municipal Lawyers Association Conference (October 16, 2017)
- ◆ *Liability Issues Arising from 911 Emergency Communications* - Speaker, Ontario Association of Fire Chiefs Conference (May 2, 2016)
- ◆ *An Update on Medical Assistance in Dying* - Chair, Ontario Bar Association Program (November 1, 2016)
- ◆ *The Buzz on Medical Marijuana* - Chair, Ontario Bar Association Program (June 20, 2016)
- ◆ *Medical Malpractice Trial 101* - Chair, Ontario Bar Association Program (April 12, 2016)
- ◆ *Demystifying Hospital Privileges Disputes* - Chair, Ontario Bar Association Program (November 18, 2015)

## **AWARDS AND RECOGNITION**

- ◆ *Best Lawyers in Canada, Health Care Law*
- ◆ *Canadian Legal Lexpert Directory, Medical Negligence*

## **EDUCATION AND PROFESSIONAL HISTORY**

- ◆ Partner, Lerners LLP (2019-present)
- ◆ Associate, Lerners LLP (2013-2019)
- ◆ Admitted to Ontario Bar (2013)
- ◆ Articling Student, Lerners LLP (2012-2013)
- ◆ Juris Doctor, University of Toronto (2012)
- ◆ B.A. (Hons), University of Toronto (2009)