

PAUL BROOKS

Insurance Defence

PARTNER

"I am grateful for every sunrise...and for advocating on behalf of clients for over 32 years."

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PROFESSIONAL HISTORY

- ◆ Partner, Lernalers LLP (1993 to present)
- ◆ Associate lawyer, Lernalers LLP (1987-1993)
- ◆ Instructor, Civil Litigation, Public Law/Charter of Rights, and other sections of the Law Society of Upper Canada, Bar Admission Course (1989 to 2005)
- ◆ Lecturer in Law, Politics and the Judicial Process, and other courses at Western University, London (1989-2003)

ACHIEVEMENTS

- ◆ In addition to private practice, Paul's academic contributions include being a past Instructor in Civil Litigation, Public Law/Charter of Rights, and other sections of the Law Society of Upper Canada, Bar Admission Course. He also lectured in Law, Politics and the Judicial Process, and other courses at Western University.

NOTEWORTHY CASES

Statutory Accident Benefits

- ◆ *Morley and National Frontier Insurance Company* [OIC A-006595, May 15, 1995] [Whether payment of a death benefit to surviving spouse precludes payment of death benefit to that spouse as a dependant]
- ◆ *Urquhart and Zurich Insurance Company* [OIC A96-00368, June 4, 1997] [Whether an insured person who continues to perform an activity, is continuously prevented from engaging in that activity]

Torts

- ◆ *Nespolon v. Alford* (1998), 40 O.R. (3d) 355 (Ont. C.A.) (Application for leave to appeal to Supreme Court of Canada dismissed January 21, 1999) [Teenagers transporting intoxicated friend in car, could not foresee risk to driver who suffered nervous shock after hitting and killing their friend]

Municipal, Land Use Planning and Administrative Law

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- ◆ *Howay v. Caradoc Township* (1991), 6 M.L.P.R. (2d) 70 (Ont. Gen. Div) [Municipal residents were users required to pay water rates even if not connected to water system]
- ◆ *Robinson v. Caradoc Township* (1998), 40 O.R. (3d) 684 (Ont. Div. Ct.) [Municipality having authority to remove and demolish vehicles and material under property standards by-law]
- ◆ *Elston v. Morris Township*, [2001] O.M.B. No. 408 (QL) (J.R. Boxma) [Claimant not entitled to damages for injurious affection under Expropriations Act for damage caused by adjacent road improvement]

Employment and Labour

- ◆ *Novosel v. Riegl* (1993) 46 C.C.E.L. 245 (Ont. Gen. Div.) [Plaintiff constructively dismissed by employer conduct and actions]
- ◆ *694643 Ontario Limited c.o.b. as O'Connor Electric*, [1995] O.L.R.B. No. 4180 (QL) [Experienced contractor becoming employee of inexperienced, non-union contractor, insufficient to make companies associated for labour relations purposes]
- ◆ *Keeler v. Bank of Nova Scotia* (1997), 29 C.C.E.L. (2d) 282 (R.H. McLaren) [Bank manager excluded from making unjust dismissal claim]
- ◆ *Fox v. Bank of Nova Scotia* (2002), 21 C.C.E.L. (3d) 172 (R. Verity) [Bank manager excluded from making unjust dismissal claim]
- ◆ *Oliver v. S.M. Freight* (2005) O.J. No. 42695 (Ont. S.J.) [Employee's unauthorized four-week absence from work warranted discipline, not dismissal]
- ◆ *McLaughlin v. Looby Construction Ltd.*, (2006) 47 C.C.E.L. (3d) 289 (Ont. S.C.J.) [Employee and employer conducted themselves in accordance with employee retiring and employment was not terminated by employer]
- ◆ *Payne v. Bank of Montreal* (2009) C.L.A.D. No. 374 (R.H. McLaren) [Bank manager not excluded from making unjust dismissal claim]
- ◆ *DeBoer v. CPC Logistics Canada Limited* (2010) C.L.A.D. No. 282 (R. Verity) [Employee failure to provide information about health status during absence warranted discipline not dismissal]
- ◆ *Payne v. Bank of Montreal* (2013) FCA 33 [Appellate counsel at Federal Court of Appeal for dismissed employee. The Court of Appeal restored an adjudicator's decision, finding that the adjudicator's reasons relating to unjust dismissal satisfied the Dunsmuir criteria.]
- ◆ *Baldor Electric Canada Inc. v. Baldor Electric Canada Inc. Employees' Association* (October 10, 2014) [Employee's gross insubordination warranted discipline not dismissal]
- ◆ *Caskanette v. Bong-Keun Choi Dentistry* (2016) ONSC 5641 (Ont. Div. Ct.) [Employee's insubordination warranted discipline not dismissal]
- ◆ *Boucher v. Black & McDonald Ltd.* (2016) ONSC 7220 (Ont. Div. Ct.) [Employment was not frustrated, and employee entitled to human rights award and wrongful dismissal damages]

SELECTED PRESENTATIONS/PUBLICATIONS

- ◆ (and Judson) "New Frontiers in Law and Practice" (Toronto: Ontario Expropriation Association Annual Fall Seminar, 1988)
- ◆ (and Judson) "Expropriations: From Initial Client Contact to O.M.B. Hearing", The O.M.B. For The Non-Specialist Keeping It In-House (Toronto: The Law Society of Upper Canada, 1989)
- ◆ (and Downs and Hopkins) "Long Term Disability, The Employment Relationship and Termination of Employment" (London: The Human Resources Professionals of London and District, 1997)
- ◆ (and Otten) "Walking the Line: Termination in the Unionized Workplace – Steps to Avoiding Grievances and Arbitrations" (London: The Human Resources Professionals of London and District, 1998)
- ◆ (and Nickle) "Employee Dishonesty and Termination (London: Southwestern Human Resources Professionals

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Conference, 2000)

- ◆ (and Lambe) “Security for Costs Motions”, Judging Motions: Advanced Interlocutory Strategies (Toronto: Ontario Bar Association Continuing Legal Education, 2002)

MEMBERSHIPS

- ◆ The Law Society of Upper Canada
- ◆ The Advocates' Society
- ◆ The Middlesex Law Association
- ◆ The Canadian Bar Association (Municipal Law, Labour and Employment Law Sections)
- ◆ The London Chamber of Commerce
- ◆ The London Squash Racquets Club

EDUCATION

- ◆ Master of Arts (Political Science), The Western University (1988)
- ◆ Admitted to Ontario Bar (1985)
- ◆ Bachelor of Laws, University of Windsor (1983)
- ◆ Bachelor of Arts, (Honours), (Political Science and Geography), Queen's University (1978)

PERSONAL INFORMATION

- ◆ Paul plays a lot of squash and tennis, and has participated in other sports including biathlons, and marathons in Punta Cana, Detroit, London and Toronto. He has bicycled in Great Britain, Italy, and from Paris to the outskirts of Lisbon.
- ◆ In terms of community involvement, he has served on the Boards of numerous charitable organizations. He has also been manager of several competitive minor hockey and baseball teams.

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