

Professional Liability and Regulation

Lenczner Slaght has one of the leading professional liability practices in Canada, representing clients in diverse fields across a broad landscape of regulatory, civil and quasi-criminal matters.

We defend professionals before disciplinary and regulatory tribunals and in all levels of the courts across the country. We also prosecute professional disciplinary cases for many regulatory colleges and governing bodies. In addition, we act as general counsel to several of those bodies, providing strategic advice, policy recommendations and counsel on drafting regulatory frameworks with regard to professional registration, fitness to practise, the handling of complaints and discipline.

Our Professional Clients

Lenczner Slaght's clients in the professional liability arena include a number of Ontario's regulated health profession colleges, along with several provincial law societies and various other bodies.

Our professional liability experience covers includes a wide range of disciplines, including:

- accountants/auditors
- architects
- dentists
- engineers
- lawyers
- actuaries
- investment advisors
- massage therapists
- nurses and nurse practitioners
- opticians
- physicians and surgeons
- psychologists

Through our frequent role as general counsel we have gained

unique insight into the current and emerging issues facing Canada's professions. This first-hand knowledge brings unmatched relevance to our strategic perspectives and practical advice.

The Bigger Picture

The working environment is changing dramatically for professionals and their governing bodies across the country. As public scrutiny of self-regulating professions grows more intense, governmental oversight is evolving in step. For many professionals, the regulatory regime in which they practise – and the potential consequences of disciplinary or other proceedings – can have a profound impact on their careers.

The impact of professional liability issues is equally significant for governing bodies, as they strive to balance the autonomy of the professions they serve with demands from government and the public for greater accountability, oversight and discipline.

Within this context, Lenczner Slaght is uniquely positioned to advise key stakeholders in all of Canada's professions. We work every day on the front lines of professional regulation and liability – in the boardroom, in the hearing room and, when necessary, in the courtroom.

RECOGNITION

- Chambers Canada (2024)
Healthcare: Contentious (Nationwide – Canada)
- Best Lawyers in Canada (2024)
Toronto "Lawyer of the Year" in Health Care Law
- Ontario Trial Lawyers Association Defence Counsel Honouree (2022)
- Chambers Canada (2023-2024)
Healthcare: Contentious (Nationwide – Canada)
- Best Lawyers in Canada (2023-2024)
Ones to Watch – Corporate & Commercial Litigation, Medical Negligence
- Best Lawyers in Canada (2023-2024)
Ones to Watch – Corporate & Commercial Litigation, Class Action Litigation, Health Care Law, Labour & Employment Law
- Best Lawyers in Canada (2023)
Toronto "Lawyer of the Year" in Legal Malpractice Law
- Best Lawyers in Canada (2023)
Toronto "Lawyer of the Year" in Medical Negligence
- Canadian Legal Lexpert® Directory (2022-2024)
Litigation - Corporate Commercial, Medical Negligence, Professional Liability
- Chambers Canada (2020-2024)
Construction; Employment & Labour: Non-Unionised Employees; Healthcare: Contentious (Nationwide – Canada)

- Chambers Canada (2022-2024)
Litigation: Administrative & Public Law (Ontario)
Healthcare: Contentious (Nationwide – Canada)
- Best Lawyers in Canada (2022)
Toronto "Lawyer of the Year" in Medical Negligence
- Best Lawyers in Canada (2022)
Toronto "Lawyer of the Year" in Health Care Law
- Canadian Legal Lexpert® Directory (2021-2024)
Medical Negligence, Professional Liability
- Canadian Legal Lexpert® Directory (2021-2024)
Medical Negligence, Professional Liability
- Canadian Legal Lexpert® Directory (2021-2024)
Litigation - Corporate Commercial, Medical Negligence, Professional Liability
- Canadian Legal Lexpert® Directory (2021-2024)
Medical Negligence, Professional Liability
- Chambers Canada (2021-2024)
Dispute Resolution: Class Action (Defence) (Nationwide); Healthcare: Contentious (Nationwide – Canada)
- Best Lawyers in Canada (2021-2024)
Corporate & Commercial Litigation, Health Care Law
- Best Lawyers in Canada (2021-2024)
Appellate Practice, Corporate & Commercial Litigation, Health Care Law, Administrative and Public Law (2022)
- Best Lawyers in Canada (2021-2024)
Health Care Law, Medical Negligence
- Best Lawyers in Canada (2021)
Toronto "Lawyer of the Year" in Health Care Law
- Best Lawyers in Canada (2022-2024)
Ones to Watch – Administrative & Public Law, Corporate & Commercial Litigation, Health Care Law, Insurance Law, Medical Negligence
- Canadian Legal Lexpert® Directory (2020-2024)
Litigation - Corporate Commercial, Medical Negligence, Professional Liability
- Canadian Legal Lexpert® Directory (2020-2024)
Litigation - Corporate Commercial, Professional Liability
- Canadian Legal Lexpert® Directory (2020-2024)
Litigation - Corporate Commercial, Medical Negligence, Professional Liability
- Chambers Canada (2020-2024)
Healthcare: Contentious (Nationwide – Canada)
- Best Lawyers in Canada (2018)
Toronto "Lawyer of the Year" in Health Care Law
- Best Lawyers in Canada (2014-2024)
Health Care Law, Medical Negligence, Professional Liability (2017)
- Best Lawyers in Canada (2020)
Toronto "Lawyer of the Year" in Legal Malpractice Law
- Best Lawyers in Canada (2020, 2023)
Toronto "Lawyer of the Year" in Health Care Law
- Best Lawyers in Canada (2020-2024)
Health Care Law, Medical Negligence
- Best Lawyers in Canada (2020-2024)
Health Care Law, Medical Negligence

- **Best Lawyers in Canada (2020-2024)**
Corporate & Commercial Litigation, Health Care Law, Medical Negligence (2023)
- **Best Lawyers in Canada (2020-2024)**
Corporate & Commercial Litigation, Defamation & Media Law, Healthcare Law, Medical Negligence
- **Canadian Legal Lexpert® Directory (2017-2024)**
Litigation - Corporate Commercial, Medical Negligence, Professional Liability, Litigation - Regulatory & Public Law (2023)
- **Best Lawyers in Canada (2019)**
Toronto "Lawyer of the Year" in Medical Negligence
- **Best Lawyers in Canada (2019)**
Toronto "Lawyer of the Year" in Health Care Law
- **Best Lawyers in Canada (2019)**
Toronto "Lawyer of the Year" in Legal Malpractice Law (2019)
- **Best Lawyers in Canada (2014-2024)**
Administrative & Public Law, Corporate & Commercial Litigation, Health Care Law, Medical Negligence, Trusts and Estates
- **Best Lawyers in Canada (2019-2024)**
Health Care Law, Medical Negligence
- **Best Lawyers in Canada (2018)**
Toronto "Lawyer of the Year" in Medical Negligence
- **Canadian Legal Lexpert® Directory (2018-2024)**
Litigation - Corporate Commercial, Medical Negligence, Professional Liability, Insolvency Litigation (2023)
- **Canadian Legal Lexpert® Directory (2018-2024)**
Class Actions, Competition Law, Litigation - Corporate Commercial, Litigation - Regulatory & Public Law, Medical Negligence, Professional Liability
- **Chambers Canada (2016-2024)**
Dispute Resolution: Class Action (Defence) (Nationwide – Canada); Healthcare: Contentious (Nationwide – Canada); Litigation: General Commercial (Ontario)
- **Best Lawyers in Canada (2018-2024)**
Construction Law, Corporate Commercial Litigation, Health Care Law, Medical Negligence, Real Estate Law
- **Best Lawyers in Canada (2018-2024)**
Administrative & Public Law, Class Action Litigation, Competition / Antitrust Law, Corporate and Commercial Litigation, Health Care Law, Medical Negligence
- **Benchmark Canada (2012-2015)**
Local Litigation Star - General Commercial, Professional Liability and Regulations, Securities
- **Benchmark Canada (2012-2024)**
Litigation Star – Arbitration, Class Action, Commercial, Intellectual Property , Professional Liability
- **Benchmark Canada (2012-2024)**
Top 50 Trial Lawyer in Canada & Litigation Star – Commercial, Competition, Insolvency, Professional Liability, Securities
- **Best Lawyers in Canada (2006-2020)**
Bet-the-Company Litigation, Class Action Litigation, Corporate & Commercial Litigation, Director & Officer Liability, International Arbitration, Legal Malpractice, Securities

- **Best Lawyers in Canada (2006-2021)**
Alternative Dispute Resolution, Appellate Practice, Bet-the-Company Litigation, Class Action Litigation, Corporate & Commercial Litigation, Director & Officer Liability, Intellectual Property, Legal Malpractice, Personal Injury Litigation, Product Liability, Securities
- **Best Lawyers in Canada (2006-2024)**
Administrative & Public Law, Appellate Practice, Bet-the-Company Litigation, Class Action Litigation, Corporate & Commercial Litigation, Director and Officer Liability Practice, Health Care Law, Intellectual Property, Legal Malpractice, Medical Negligence, Personal Injury Litigation, Product Liability, Securities
- **Best Lawyers in Canada (2006-2024)**
Alternative Dispute Resolution, Appellate Practice, Bet-the-Company Litigation, Class Action Litigation, Corporate & Commercial Litigation, Director & Officer Liability, Health Care Law, Insolvency & Financial Restructuring, Legal Malpractice, Medical Negligence, Securities
- **Best Lawyers in Canada (2013-2024)**
Construction Law, Corporate & Commercial Litigation, Health Care Law, Insurance, Medical Negligence, Real Estate Law
- **Best Lawyers in Canada (2013-2024)**
Administrative & Public Law, Class Action Litigation, Corporate & Commercial Litigation, Defamation & Media, Health Care Law, Legal Malpractice Law
- **Best Lawyers in Canada (2014, 2014)**
Appellate Practice, Health Care Law, Medical Negligence
- **Best Lawyers in Canada (2014-2024)**
Administrative and Public Law, Corporate & Commercial Litigation, Health Care Law, Medical Negligence
- **Best Lawyers in Canada (2014-2024)**
Corporate & Commercial Litigation, Health Care Law, Medical Negligence
- **Best Lawyers in Canada (2014-2024)**
Corporate & Commercial Litigation, Health Care Law, Insurance, Medical Negligence, Product Liability
- **Best Lawyers in Canada (2014-2024)**
Administrative & Public Law, Corporate & Commercial Litigation, Director and Officer Liability Practice, Franchise Law (2022), Health Care Law, Medical Negligence, Real Estate Law
- **Best Lawyers in Canada (2014-2024)**
Corporate & Commercial Litigation, Health Care Law, Labour & Employment Law, Medical Negligence
- **Best Lawyers in Canada (2015)**
Toronto "Lawyer of the Year" in Health Care Law
- **Best Lawyers in Canada (2016)**
Toronto "Lawyer of the Year" in Medical Negligence
- **Canadian Legal Lexpert® Directory (2012-2019)**
Class Actions (2018), Commercial Arbitration, Litigation - Corporate Commercial, Litigation - Directors' & Officers' Liability, Litigation - Securities, Professional Liability
- **Canadian Legal Lexpert® Directory (2012-2020)**
Class Actions, Commercial Arbitration, Litigation - Corporate Commercial, Litigation - Directors' & Officers' Liability, Litigation - Product Liability, Litigation - Public Law, Litigation - Securities, Medical Negligence (2019), Professional Liability
- **Canadian Legal Lexpert® Directory (2012-2024)**
Litigation - Commercial Insurance, Litigation - Corporate Commercial, Medical Negligence, Professional Liability

- Canadian Legal Lexpert® Directory (2012-2024)
Medical Negligence (Most Frequently Recommended), Professional Liability (Most Frequently Recommended)
- Canadian Legal Lexpert® Directory (2012-2024)
Class Actions, Commercial Arbitration, Insolvency & Financial Restructuring, Litigation - Corporate Commercial, Litigation - Directors' & Officers' Liability, Litigation - Securities, Medical Negligence, Professional Liability
- Canadian Legal Lexpert® Directory (2012-2024)
Class Actions, Commercial Arbitration, Litigation - Corporate Commercial, Litigation - Directors' & Officers' Liability, Litigation - Regulatory & Public Law, Litigation - Securities, Medical Negligence, Personal Injury, Professional Liability, Litigation - Public Law (2023)
- Canadian Legal Lexpert® Directory (2013-2024)
Litigation - Corporate Commercial, Medical Negligence, Professional Liability, Litigation - Directors' & Officers' Liability, Litigation - Regulatory & Public Law (2021), Litigation - Securities (2023)
- Canadian Legal Lexpert® Directory (2013-2024)
Estate & Personal Tax Planning, Litigation - Corporate Commercial, Medical Negligence, Professional Liability, Litigation - Regulatory & Public Law (2021)
- Canadian Legal Lexpert® Directory (2013-2024)
Litigation - Corporate Commercial, Medical Negligence, Professional Liability, Litigation - Defamation & Media (2021), Employment Law (Employer) (2021)
- Canadian Legal Lexpert® Directory (2014-2024)
Commercial Arbitration, Litigation - Corporate Commercial, Litigation - Defamation & Media, Litigation - Intellectual Property, Litigation - Regulatory & Public Law, Professional Liability, Litigation - Public Law (2023)
- Canadian Legal Lexpert® Directory (2014-2024)
Litigation - Commercial Insurance, Litigation - Corporate Commercial, Litigation - Product Liability, Medical Negligence, Professional Liability
- Canadian Legal Lexpert® Directory (2015-2016)
Medical Negligence
- Canadian Legal Lexpert® Directory (2015-2024)
Litigation - Corporate Commercial, Litigation - Regulatory & Public Law, Medical Negligence, Professional Liability
- Canadian Legal Lexpert® Directory (2017-2024)
Litigation - Corporate Commercial, Medical Negligence, Professional Liability

SELECT CASES

- **PHIPA Decision 240** – Counsel to the successful respondent physician in a complaint before the Information and Privacy Commissioner of Ontario, relating to the application of the access provisions of the Personal Health Information Protection Act in a circumstance where the complainant was a relative and not a patient.
- **Thompson v Azad** – Counsel to the successful Defendant Physician in a trial for alleged negligence relating to follow-up treatment after surgery.
- **Jaroli v Dueck** – Counsel to the successful Defendant Physician in a trial for alleged negligence in respect of cancer treatments.
- **Baines v Abounaja** – Counsel to the defendant emergency physician in an action relating to the transfer of the plaintiff from a community hospital to a tertiary centre.
- **Dr. Milad v CPSO** – Counsel to physician in motion for a stay of proceedings on the basis of an abuse of process.
- **College of Psychologists of Ontario v Sharma** – Counsel to regulator

in successful application for a statutory injunction pursuant to the Regulated Health Professions Act preventing unauthorized practice as a psychologist and misuse of restricted titles.

- **College of Physicians and Surgeons of Ontario v Cheng** – Counsel to the Defendant Physician in successfully defeating claims of sexual abuse of a patient at a trial before a panel of the Ontario Physicians and Surgeons Discipline Tribunal.
- **Armstrong v Ward** – Counsel to a physician in rare medical malpractice case before the Supreme Court of Canada, which discussed interesting issues relating to the standard of care.
- **Jha v College of Physicians and Surgeons of Ontario** – Counsel to a physician in a complex and novel constitutional challenge to a provision of the *Regulated Health Professions Act* on the basis of paramourcy and a conflict with provisions of the *Criminal Code*.
- **Maciver v Gill** – Counsel to a successful defendant in an ANTI-SLAPP motion arising out of statements made during the COVID-19 pandemic. The case involved interesting issues of the limits of free speech and alleged misinformation in the context of a global pandemic. The matter received significant media attention.
- **Finnigan et al v Lee** – Counsel to the successful defendant physician in a trial in which the patient alleged delay in the diagnosis of lymphoma and insufficient pain management. The trial judge reinforced that a “worst first” principle (that physicians must take action based on the worst possible potential outcome) is not the law in Ontario and a stepwise approach to diagnosis is appropriate.
- **Professional Negligence** – Counsel to a patent prosecution firm regarding a threatened negligence claim, which was promptly settled.
- **Ponessa v Bonenfant** – Counsel to a physician on a motion to determine the existence of a novel duty of care in the health care setting.
- **Estil v FTI Professional Grade** – Counsel to the successful defendant in resisting an injunction for a declaration of partnership arising out of the supply of ventilators to the Government of Canada.
- **Owala v Makary** – Counsel to several defendant physicians in connection with a medical negligence action after a woman died from an aortic dissection. Successfully defended the action through a 10-week trial.
- **Grant Thornton v New Brunswick** – Counsel to Grant Thornton in a successful appeal to the Supreme Court of Canada clarifying the rule of discoverability in limitation periods law across Canada.
- **Zimmerman v McNaull** – Counsel to Respondent Physicians in a successful interlocutory motion, seeking a declaration that the Plaintiffs had impliedly waived privilege over information upon which they relied for their motion to add the Respondent Physicians to the Plaintiffs’ action after the presumptive expiry of the limitation period.
- **Florence v Benzaquen** – Counsel to successful obstetrician/gynecologist in the appeal of a motion striking the claims of minor triplets who made allegation so negligence for conduct arising pre-conception. A majority of the Court of Appeal agreed with the motion judge in favour of the defendant physician that no duty of care is owed to an as-yet conceived plaintiff.
- **College of Psychologists of Ontario v Ontario (Health Professions Appeal and Review Board)** – Counsel to the College of Psychologists of Ontario in a successful appeal from a decision of the Health

Professions Appeal and Review Board regarding registration.

- **Hutterli et al v Scott** – Counsel to the successful Defendant Physician in a trial for alleged negligence for failing to diagnose and treat an ankle fracture.
- **Musllam v Hamilton General Hospital et al** – Counsel to the Defendant Physician in successfully resisting proposed amendments to the Statement of Claim after the expiry of the limitations period.
- **King v Gannage** – Counsel in the successful defense of a judicial review before the Divisional Court of a Health Professions Appeal and Review Board decision regarding a physician's use of complementary/alternative medicine.
- **Knight v Lawson** – Counsel to the successful Defendant Physician in a trial for alleged negligence for a delayed diagnosis of a ureteric injury.
- **Edem v Kantor** – Counsel to the successful Respondent physician in a *Mental Health Act* appeal concerning findings of incapacity and the issuance of a Community Treatment Order.
- **College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario v Xu** – Counsel to the College of Traditional Chinese Medicine Practitioners in a complex prosecution of a member found guilty of issuing false diplomas to numerous applicants to the College. The matter raised issues of fundamental importance to the College including the integrity of its registration system.
- **Ioana Huma et al v Gregory Sue-A-Quan et al** – Counsel for physicians in a medical malpractice action. Parties entered into settlement. Plaintiffs resiled from the settlement. Successfully moved to enforce settlement and upheld result on appeal.
- **Re JM** – Counsel to the Applicant physician on a proceeding before the Consent and Capacity Board, seeking a determination as to whether or not a substitute decision maker had complied with the requirements of the *Health Care Consent Act* in declining consent for the withdrawal of life-sustaining treatment.
- **Bayer Inc v On Sight Pharmacy Group Inc, et al** – Counsel to the defendant pharmacies in a dispute over alleged breaches of purchase and sale contracts for specialty pharmaceuticals.
- **Armstrong v Royal Victoria Hospital** – Appealed successfully on behalf of the defendant physician in a case of alleged negligence relating to a ureteric injury during a colectomy.
- **Liam Marshall v College of Psychologists** – Counsel to the successful respondent, the College of Psychologists of Ontario, in an appeal to Divisional Court from a decision of the Health Professions Appeal and Review Board confirming the College's decision not to register the appellant as a psychologist
- **Law Society of Ontario v Sorrenti** – Counsel to the Law Society of Ontario in an application to have a trustee appointed over a Lawyer's mortgage administration practice.
- **Huma v Mississauga Hospital and Queensway Health Centre (Trillium Health Partners)** – Successful in enforcing a settlement agreement against multiple Plaintiffs.

- **Cheesman v Credit Valley Hospital** – Counsel to a defendant ophthalmologist in an action alleging negligence in respect of the care and treatment of an infection resulting in sepsis and multiple complications. Successful in having the action dismissed following a 15 week trial before a jury.
- **MacIsaac v Mackinnon** – Counsel to the defendant in multi-week jury trial including a motion to exclude the evidence of a proposed expert witness. This case raised complicated issues of causation involving an extremely rare metabolic condition.
- **Wintercorn v Global Learning Group Inc** – Counsel to a defendant law firm in a proposed class proceeding in Ontario relating to a tax donation program alleging professional negligence.
- **Chelin v Carr** – Counsel to the defendant accounting firm in a claim alleging negligence and breach of trust against a former partner of the firm.
- **Warwaruk v Jones-Carter** – Counsel to the successful defendant physician in a medical malpractice trial involving allegations that the physician was negligent in his management of shoulder dystocia during delivery. Decision includes important consideration of the causation principles applicable to medical malpractice actions generally.
- **Jacques v Francis** – Counsel to the defendant emergency physician in the successful defence at trial of an alleged failure to diagnose an ischemic leg
- **Boyle & Co v Stableview Asset Management Inc et al** – Counsel to the defendants in an action claiming for unpaid legal fees.
- **Sexton v Smith** – Counsel to a dermatologist and medical clinic alleged to have engaged in negligence, breach of the *Occupiers' Liability Act*, breach of contract and misrepresentation in relation to cosmetic treatments. Successful in having all allegations dismissed.
- **Dhaliwal v Sims** – Counsel to a physician in a case involving a perforated bowel during a hysterectomy. The case was dismissed on consent without costs after two weeks of trial
- **Polman v The Chartered Professional Accountants of Ontario** – Counsel to the Chartered Professional Accountants of Ontario in the successful defense at the Human Rights Tribunal of Ontario of alleged discrimination concerning the unification of the accounting professions in Canada.
- **Jacobson v Skurka** – Counsel to a prominent criminal lawyer in a case involving allegations of solicitor's negligence in connection with a guilty plea in US criminal proceedings. Successful in having the action dismissed on a motion for summary judgment.
- **Faas v Centre for Addiction and Mental Health Foundation** – Counsel to the respondent Centre for Addiction and Mental Health Foundation in an application and appeal by a donor to have an investigation conducted by the Public Guardian and Trustee into how the Foundation had used his donation. The Foundation was successful in resisting the relief sought at the application stage, and in having that decision upheld at the Court of Appeal for Ontario.
- **Zucchet v Giffin et al** – Successfully enforced an agreement to dismiss the matter on behalf of the defendant physicians.
- **ES v Joannou** – Counsel to a psychiatrist in an appeal raising the novel issue of the jurisdiction of the Consent and Capacity Board to grant remedies under the *Charter of Rights and Freedoms*. Successfully

responded to the appeal.

- **Piett v Global Learning Group Inc** – Counsel to a defendant law firm in a proposed class proceeding in Saskatchewan relating to a tax donation program alleging professional negligence.
- **Breton v Fairley** – Counsel to the defendant physician in a medical negligence trial relating to the performance of a laparoscopy and vaginal resection.
- **Hantzakos v Sternadel** – Counsel to the defendant physician in a jury trial regarding the quantum of damages in a medical negligence relating to the management of shoulder dystocia.
- **Rayner v McManus** – Counsel to a physician in a proceeding alleging liability to a non-patient in respect of statements made by the physician to another individual. The case involved novel issues regarding the duty of care of physicians to non-patients.
- **Falodun v Lemckert** – Counsel to the respondent physician in proceedings before the Human Rights Tribunal relating to an allegation of discrimination with respect to services because of disability and reprisal.
- **Broker v SCOPE Clinic** – Counsel to a physician and clinic against an allegation of discrimination with respect to services because of disability.
- **Molnar v Antoniuk** – Counsel to defendant physicians in a jury trial involving allegations of negligence in relation the treatment of the plaintiff's depression and risk for suicide.
- **College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario v Federation of Ontario Traditional Chinese Medicine Association** – Counsel to the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario in an application and subsequent appeal against respondent organizations and individuals for declarations that the respondents breached the *Regulated Health Professions Act*. Interim injunctions obtained against the respondents.
- **Trillium Motor World Ltd v General Motors of Canada Ltd** – Counsel to defendant, Cassels Brock and Blackwell LLP, in an eight week trial commenced on behalf of a group of General Motors of Canada Limited dealers whose dealerships were terminated by GMCL as a result of the financial crisis and "auto bailout" in the summer of 2009.
- **Goodman v Viljoen** – Counsel to the defendant physician in a compromised infant medical negligence action at trial and on appeal.
- **Gentra Canada Investments Inc v Lipson** – Counsel to successful plaintiff/respondent on an appeal from complex motion for summary judgment. Appeal raised issues of law involving the assignment of two mortgages and a cause of action in solicitors' negligence.
- **Timpano v Hurst** – Counsel to successful defendant general surgeon on a dismissal of an appeal and at the trial of a medical negligence action involving a patient who suffered post-surgical complications and died.
- **Tobin v Garside** – Counsel to successful defendant psychiatrist at trial in a medical negligence action involving an alleged improper discharge from hospital of a patient suffering from schizophrenia.
- **Workentin v Hospital for Sick Children** – Counsel to successful defendant pediatric surgeon at trial in a medical negligence action involving an alleged misdiagnosis of a bowel disease.
- **Vescio v Garfield** – Counsel to successful defendant pediatrician at trial

in a medical negligence action involving an alleged missed diagnosis of hyperbilirubinemia.

- **Tingling v The College of Psychologists of Ontario** – Counsel to the College of Psychologists of Ontario on a successful motion to dismiss an application to the Ontario Human Rights Tribunal relating to the applicant's registration proceeding at the College.
- **Zarubiak (Estate) v Luce** – Counsel to a family physician in the successful defence at trial of the decision to discharge a patient from hospital, following which the patient sustained a fall.
- **Anishnawbe Mushkiki Inc v Health Insurance Reciprocal of Canada** – Counsel to Grant Thornton LLP in connection with a dispute regarding allegations of professional negligence against an auditor.
- **DA v RH** – Counsel to optometrists in a successful review of a decision of the College of Optometrists of Ontario to issue written cautions, on the basis that the underlying provision of the professional misconduct regulation improperly restricted the members' *Charter* rights to freedom of expression and freedom of association.
- **Summersgill v O'Mahony** – Counsel to the defendant physician in an action for damages arising from the plaintiff's perforated ulcer.
- **Williams v Schuringa** – Counsel to the defendant physician in a jury trial following the death of a patient from a sudden pulmonary embolism.
- **Parasiliti v Beatty** – Counsel to the successful defendant physicians at trial in a case involving allegations of professional negligence arising from the care, treatment and management of multiple hand fractures.
- **Mazzucco v Herer** – Counsel to the successful defendant physicians in a jury trial of a complex medical malpractice action relating to a stroke following childbirth. Includes important interim ruling relating to deductibility of disability benefit.
- **Beal v Rebello** – Counsel to defendant physicians in a proceeding alleging injury during a brain biopsy. Successfully moved to strike the Statement of Claim for failing to disclose a cause of action.
- **Law Society of Upper Canada v Groia** – Counsel to the Law Society of Upper Canada in the prosecution of a lawyer for professional misconduct. A three member panel of the Divisional Court affirmed the decision of an Appeal Panel of the Law Society of Upper Canada that found the lawyer had committed acts of professional misconduct. The Divisional Court also confirmed his penalty of a one month suspension and its \$200,000 costs award in favour of the law society.
- **Moore v Getahun** – Counsel on appeal for the defendant physician in a proceeding alleging negligence in the treatment of a fractured wrist. The Court of Appeal's decision provided important guidance on the role of counsel in the preparation of expert reports and the limits on the production at trial of information from an expert witness's file.
- **Boudreau v Farjalla** – Counsel to defendant physician in a successful defence in a jury trial involving a medical procedure.
- **Law Society of Upper Canada v Opara** – Counsel to the Law Society of Upper Canada in a successful appeal of a decision concerning unprofessional conduct by a barrister.
- **Law Society of Upper Canada v DeMerchant** – Counsel to the Law Society of Upper Canada in successfully defending a motion for production of prosecution documents on the basis of a claim of abuse of process.

- **O'Halloran v Trillium Health Centre** – Counsel to the physician on successful motion opposing the addition of four physicians to a medical negligence action.
- **Girard and Gagnon v Windsor Regional Hospital** – Counsel to two successful defendant physicians in a medical negligence action relating to treatment of wrist fractures.
- **College of Massage Therapists of Ontario v Stefanov** – Counsel to the College of Massage Therapists of Ontario in a prosecution of a member for professional misconduct under the *Regulated Health Professions Act* and the subsequent appeal to the Divisional Court.
- **College of Massage Therapists of Ontario v Heaven** – Counsel to the College of Massage Therapists in Discipline Committee hearing concerning allegations of practicing while suspended. Hearing proceeded on agreed statement of facts, with penalty contested. The Discipline Committee revoked the license of the member.
- **Plummer v College of Massage Therapists of Ontario** – Prosecutor for The College of Massage Therapists of Ontario in an appeal of a decision of the Discipline Panel of the College finding a member guilty of conduct unbecoming a massage therapist on the grounds that he had instructed or authorized an employee to issue false receipts indicating that he had performed massages which were instead performed by his non-registered employee.
- **Graat v Adibfar** – Counsel to the successful defendant doctor in a jury trial concerning the plaintiff's informed consent to a breast augmentation and lift.
- **Mangal v William Osler Health Centre** – Counsel to the successful defendant physicians at trial and on appeal in a wrongful death medical negligence action relating to a post-partum haemorrhage.
- **Reyhanian v Health Professions Appeal and Review Board** – Counsel to the successful respondent doctor on an application for judicial review of a decision of the Health Professions Appeal and Review Board in a professional misconduct matter.
- **Sazant v College of Physicians and Surgeons of Ontario** – Counsel to intervener physicians in a constitutional challenge to a provision of the *Regulated Health Professions Act*.
- **Bollman v Soenen** – Counsel to the defendant physician in a medical negligence action at trial and on appeal in a matter relating to the treatment of menorrhagia.
- **Volochay v College of Massage Therapists of Ontario** – Counsel to the College of Massage Therapists of Ontario, on a successful appeal of the issue as to whether the application judge was wrong in principle to grant judicial review and quash two decisions of the College's investigatory bodies.
- **Cooper v Valiulis** – Counsel in a successful defence at trial of a bariatric surgeon in a medical negligence action in respect of morbid obesity surgery.
- **Lipson v Cassels Brock & Blackwell LLP** – Counsel to defendant law firm in a class action in connection with a charitable tax program. The Court of Appeal rendered a seminal decision on the commonality of the defence of a limitation period on a certification motion. In 2023, the Court approved the successful resolution of the action.
- **Armstrong v Tamari** – Counsel in a medical negligence trial before a jury on behalf of a family physician in respect of the management of

shoulder dystocia.

- **Thompson v Sehgal** – Counsel to the defendants physicians in a medical negligence proceeding, including on a motion for summary judgment on the basis that the limitation period had expired.
- **Law Society of Upper Canada v Coady** – Counsel for the Law Society in the successful prosecution of a member for professional misconduct. The decision was affirmed on appeal by the Law Society Appeal Panel.
- **Bannon v McDonagh** – Counsel in a medical negligence action against an obstetrician in respect of the performance of a Caesarean section.
- **Law Society of Upper Canada v Ross** – Counsel for the Law Society in an appeal from a Discipline Committee decision.
- **R v Beitel** – Counsel to a physician in a successful *Charter* application to exclude evidence seized in contravention of the accused's right to be free from unreasonable search and seizure. The application involved the application of constitutional principles to the search of internet service providers and psychiatric offices.
- **Ortolan v Hotel-Dieu Grace Hospital** – Counsel to appellant physician on a successful appeal to Court of Appeal from a trial judgment awarding damages to plaintiffs for medical negligence arising from a surgical procedure.
- **Perrault v Encon Insurance Managers Inc** – Counsel to insured physician on an application to interpret an exclusion clause in an insuring agreement. Court determined that the bodily injury exclusion was not applicable in the context of the Red Cross tainted blood supply prosecution. Application allowed and indemnification for costs of the successful defence to criminal charges granted to the physician.
- **Benard v Mundle** – Counsel to the successful defendant obstetrician in the trial of an action involving a post partum hemorrhage.
- **Barbiero v Pollack** – Counsel to a physician in a class action relating to the use of an injectable treatment.
- **Cordick v Bologna** – Counsel at trial in a successful defence of a gynecologist alleged to have negligently performed the removal an ovary.
- **Marchand v Jackiewicz** – Counsel to three defendant physicians who allegedly failed to postpone the plaintiff's elective surgery that resulted in the plaintiff developing an invasive group A streptococcal infection leading to organ failure, toxic-shock like syndrome and a coma. Successfully defended the claim at trial.
- **Inquest into the Death of Wayne Howard** – Counsel to three physicians at the Coroner's Inquest into the death of an inmate while in custody at the Central North Correctional Centre.
- **Gore v College of Physicians and Surgeons of Ontario** – Counsel for the physician in an application for judicial review of the powers of the College of Physicians and Surgeons of Ontario to observe physicians performing medical functions and to compel an interview.
- **Bourque v St Joseph Health Centre** – Counsel for the successful defendant physicians in the trial of a medical malpractice matter relating to injuries alleged suffered during surgery.
- **Robinson v Rochester Financial Limited** – Counsel to the defendant law firm in a class action for solicitor's negligence involving a tax shelter based on charitable donations using in part borrowed money for tax deductions.
- **McKee v Health Professions Appeal and Review Board** – Counsel to

a physician on a successful judicial review application to quash the decision of the Health Professions Appeal and Review Board.

- **Windsor Regional Hospital v Bordoff** – Counsel to the physicians in a trial of a cross-claim between the hospital and the physicians regarding the care of a psychiatric patient.
- **College of Physicians and Surgeons of Ontario v Beitel** – Counsel in the defence of a physician before a panel of the Discipline Committee of the College of Physicians and Surgeons of Ontario. Successful appeal to the Divisional Court of a finding of misconduct by the Discipline Committee.
- **Gratzki v Estate of Clark** – Counsel for the defendant estate in a medical malpractice case. Action dismissed without costs on consent after four days of trial.
- **Revell v Heartwell** – Counsel in a trial and appeal in defence of a plastic surgeon alleged to have negligently performed reconstructive surgery.
- **Kelly v Ontario** – Counsel for a physician in disciplinary proceedings. Included an application for various relief on constitutional grounds and a constitutional challenge to a provision of the *Regulated Health Professions Act*.
- **Inquest into the Death of Jeffrey James** – Counsel to several physicians in a high profile Coroner's Inquest relating to a psychiatric patient at the Centre for Addiction and Mental Health.
- **Dufour v Kim** – Counsel for the successful defendant in a medical negligence jury trial.
- **Diaczuk v Holloway** – Counsel to the defendant physician in a medical malpractice case relating to an injury sustained during the delivery of a baby. Successful in defending the action at trial.
- **Meady v Greyhound Canada Transportation Corp** – Counsel for a physician in an action relating to a bus crash that had occurred as a result of conduct of a patient. Successful in opposing a motion to add the physician to the action, and in precedent-setting appeal regarding the interpretation of the *Limitations Act, 2002* and the doctrine of special circumstances.
- **Skufca Estate v Varga** – Counsel to a geriatrician on summary judgment motion in a medical negligence action.
- **GM v Alter** – Counsel for defendant physicians in an action relating to the *in utero* infection of a baby with HIV. Contested hearing and appeal concerning the scope and interpretation of a settlement offer, and whether it should be presumed to include a right to structure the lump sum payment.
- **Franklin v College of Physicians and Surgeons of Ontario** – Counsel to a physician in a judicial review application concerning the jurisdiction of the Discipline Committee of the College of Physicians and Surgeons of Ontario to order payment of costs in certain circumstances.
- **Adair Estate v Hamilton Health Sciences Corp** – Counsel to the defendant physicians in a medical negligence claim alleging a failure to diagnose a bowel obstruction in a timely fashion.
- **Kurek v Brown** – Counsel for the defendant physician in a civil action. Successful motion and appeal, dismissing a third party claim on the grounds that it was statute barred.
- **Katzman v Royal College of Dental Surgeons of Ontario** – Counsel on a successful motion by the defendant to determine questions of law

and strike out portions of the plaintiff's claim on the basis of absolute privilege and the *Regulated Health Professions Act*.

- **Houlihan v Caskey** – Counsel in a medical negligence trial successfully defending a physician against the allegation that he negligently prescribed Viagra to his patient.
- **Tantawy v Casa Verde** – Counsel for a physician on a motion to prevent the addition of a physician to a medical negligence action beyond the relevant limitation period. Successful on the motion and on appeal.
- **Bovindgon v Hergott** – Counsel for the defendant physician in a lengthy jury trial and an appeal in a wrongful life case.
- **Giroux Estate v Trillium Health Centre** – Counsel to a physician in a medical negligence action, which included an appeal dealing the doctrine of fraudulent concealment and the limitation period applicable to claims by estates.
- **Blanchard v Sherstan** – Counsel for the successful defendant in a medical malpractice case.
- **CB v Sawadsky** – Counsel to a physician alleged to have failed to advise patient of her right to counsel under the *Mental Health Act* and the *Charter of Rights and Freedoms* when detaining the patient for psychiatric assessment. Successful at trial and on appeal.
- **O'Toole v Sumner** – Counsel on a successful motion for summary judgment in a medical malpractice case.
- **Reid v Livingstone** – Counsel to defendant physicians in a medical malpractice action relating to management of pain during labour and delivery. Successful motion for summary judgment.
- **Hercules v Sunnybrook and Women's College Health Sciences Centre** – Counsel to two physicians on a successful motion and appeal for summary judgment in a medical negligence action.
- **Nyilas v Lamb** – Successful defence at trial of medical malpractice claim against physician concerning punctured lung.
- **Pagliaroli v BMO Investorline Inc** – Counsel to BMO Investorline, successfully defending at trial a claim involving allegations of negligence in connection with a stock trade.
- **Madonia v Stevens** – Counsel to defendant cardiologist in a medical malpractice trial in respect of the interpretation of an electrocardiogram and treatment of atrial fibrillation.
- **Cruz v Robins** – Successful defence of an obstetrician in a negligence action and subsequent appeal involving the diagnosis of gestational diabetes and the medical management of shoulder dystocia.
- **College of Massage Therapists of Ontario v Semenuk** – Counsel to the College of Massage Therapists of Ontario in a Discipline Committee hearing and a subsequent appeal brought by the member in the Divisional Court.
- **College of Massage Therapists of Ontario v Boucher** – Counsel to the College of Massage Therapists of Ontario in a discipline proceeding related to an examination security breach.

- **College of Massage Therapists of Ontario v CA** – Counsel to the College in a successful prosecution of a member in respect of two incidents of sexual abuse of patients, as well as falsifying clinical notes and records and providing false and misleading information in the course of an investigation.
- **The College of Psychologists of Ontario v Glatt** – Counsel to the applicant professional regulator on an application to enjoin the respondent from unauthorized practice and the performance of controlled acts, namely the communication of diagnoses, while not authorized by a health profession Act.
- **College of Massage Therapists of Ontario v Kamoulakos** – Prosecutor for The College of Massage Therapists in Discipline Committee hearing concerning allegations of, among other things, practicing while suspended and providing misleading information to the College during its investigation. The Discipline Committee revoked the license of the member.
- **Inquest into the Death of Lisa Shore** – Counsel to a physician at a Coroner's Inquest into the death of Lisa Shore caused by probable complex drug interaction leading to cardiac and respiratory arrest ruled as homicide. First inquest finding of homicide in Ontario.
- **Law Society of Upper Canada v Neinstein** – Counsel to the Law Society of Upper Canada in connection with appeals to the Divisional Court and Court of Appeal for Ontario on a professional discipline matter.
- **Beagle v Gyomerey** – Counsel to the successful respondent in an appeal involving the interpretation and application of the *Mental Health Act* and challenges to psychiatric findings of incapacity.
- **Smith v Lattuca** – Counsel to the defendant physicians in a medical negligence proceedings. Successfully opposed a motion by the plaintiff to extend the deadline to set the action down for trial after the deadline had passed, resulting in dismissal of the action.
- **Professional Negligence Claim** – Counsel to an international engineering consulting firm defending a \$20+ million claim of professional negligence relating to the design and construction of a courthouse. (*Prior to joining Lenczner Slaght.*)
- **Jajo v Ontario (Transportation)** – Counsel to the applicant in a successful judicial review application challenging the Government's decision to revoke license to practice a profession. (*Prior to joining Lenczner Slaght*)
- **Novis v Werneck** – Counsel to the defendant physician. Resolved in favour of the defendant physician by way of summary judgment.
- **Watson v Soon** – Counsel to the defendant urologist in successfully defeating a claim at Trial for damages arising from the misdiagnosis of kidney cancer in a diabetic patient.

SELECT PUBLICATIONS AND PRESENTATIONS

- **A 2023 Snapshot: Through the Lens of Lenczner Slaght** – Lenczner Slaght launches *A 2023 Snapshot*, a look at the most significant developments, decisions, business takeaways, and trends in litigation from the last year, across 15 practice areas. Revisit 2023 and look ahead to 2024 through the lens of our expert litigators.
- **Clinical Risk, Negligence and Claims Management in Health Care** – Risa M. Kirshblum was invited by Osgoode PD to share her expertise on

Module 3 of their program, *Clinical Negligence, Liability Claims and Litigation*. She shared her expertise on medical malpractice and liability claims, the litigation process, and defence best practices and mitigation strategies.

- **Penalty Hearings and Appeals** – Lidiya Yermakova presented at OsgoodePD's certificate program on Professional Regulation and Discipline in the Ontario Health Care Sector. Lidiya was a panelist on *Module 5: Penalty Hearings and Appeals*.
- **The Discipline Hearing** – Colin Johnston was invited to share his expertise at OsgoodePD's certificate program on Professional Regulation and Discipline in the Ontario Health Care Sector. Colin presented on *Module 4: The Discipline Hearing*.
- **Annual Pot Pourri of Medico-Legal Cases** – Lidiya Yermakova was invited to share her expertise at the Medico-Legal Society of Toronto's Annual Pot Pourri of Medico-Legal Cases.
- **Penalty Hearings and Appeals** – Paul-Erik Veel was invited to share his expertise at OsgoodePD's certificate program on Professional Regulation and Discipline in the Ontario Health Care Sector. Paul-Erik presented on *Module 5: Penalty Hearings and Appeals*.
- **Prosecuting and Defending Professional Discipline Cases 2023** – Jaan Lilles and Colin Johnston will be sharing their expertise at OsgoodePD's annual program on professional discipline hearings. Jaan will discuss *Assessing Duties and Powers* while Colin presents on *Examinations, Interviews, Inquiries*.
- **Mental Health and the Regulation of Health Professionals** – Colin Johnston co-chaired an OBA Health Law program on how health regulators and employers manage mental health issues.
- **Continuing Medical Education Seminar: Obstetrical Malpractice 2023** – Tom Curry shared his expertise at Mount Sinai Hospital's Continuing Medical Education Seminar. Tom discussed *Extreme Prematurity (22-24 weeks)*.
- **Clinical Risk, Negligence and Claims Management in Healthcare** – Risa M. Kirshblum was invited to share her expertise at OsgoodePD's Clinical Risk, Negligence and Claims Management in Healthcare Certificate Program. Risa discussed the litigation process and defence best practices/mitigation strategies.
- **Hospitals and Health Facilities** – Lidiya Yermakova was invited to speak as a guest lecturer at an Osgoode Hall Law School class on "Hospitals and Health Facilities".
- **Medical Assistance in Dying: What's New & What's Coming** – Colin Johnston led a CBA Health Law Section program on how the law of MAiD has developed, what has changed with Bill C-7, and what's potentially coming next.
- **Prosecuting and Defending Professional Discipline Cases 2022** – Jaan Lilles and Dena N. Varah were invited to share their expertise at OsgoodePD's annual program on professional discipline hearings.
- **Continuing Medical Education Seminar: Obstetrical Malpractice 2022** – Tom Curry shared his expertise at Mount Sinai Hospital's Continuing Medical Education Seminar. Tom led discussions on "*Pre Term Labour*" and "*Medical Legal Response and Case Examples*".
- **Legal Intricacies of Physician Investigations** – Colin Johnston co-chaired an OBA Health Law program on physician investigations, in particular, a physician's procedural rights at the investigatory stage, what

physicians are entitled to, and what is required of them both in the workplace and with the College.

- **Top Legal Pandemic Issues for Health Care Providers** – Lidiya Yermakova co-chaired the OBA's program titled "Top Legal Pandemic Issues for Health Care Providers".
- **Annual Pot Pourri of Medico-Legal Cases (Part Two)** – Paul-Erik Veel shared his expertise at the Medico-Legal Society of Toronto's Annual Pot Pourri of Medico-Legal Cases. Paul-Erik discussed *G.C. v Jugenburg* and the use of RHPA materials in civil actions.
- **Keeping Up With Health Law** – Derek Knoke was invited to share his expertise at the OBA's call in series titled *Keeping up with Health Law*. Derek discussed the recent decision in *Zimmerman v McNaul*.
- **OBA Health Law Section Year End Program and Award Presentation** – Paul-Erik Veel co-chaired the OBA Health Law Section's year end program. Following an award presentation for the OBA Susan Hilary Davidson Memorial Award for Excellence in Health Law recipient, there was a panel discussion on how medical malpractice litigation has evolved during the pandemic and where it is going in the year ahead.
- **Prepped for Practice: Medical-legal Essentials for Residents** – Andrea Wheeler shared her expertise at the CMPA's educational series titled "Prepped for Practice: Medical-legal Essentials for Residents". Andrea provided her expert insights on the Q&A portion of the following sessions:
- **Understanding and Dealing with the Litigation Process** – Nina Bombier shared her expertise at OsgoodePD's certificate program in Clinical Risk, Negligence & Claims Management in Healthcare. Nina presented on the module "Understanding and Dealing with the Litigation Process".
- **Old vs. New Guidelines: Do the New "Concise" Guidelines Make Parts of the Old Guidelines (not addressed) Now Obsolete?** – Tom Curry shared his expertise at Mount Sinai Hospital's continuing medical education seminar on the scope of obstetrical malpractice suits. Tom presented on the topic "*Old vs. New Guidelines: Do the New "Concise" Guidelines Make Parts of the Old Guidelines (not addressed) Now Obsolete?*".
- **Clinical Negligence, Liability Claims and Litigation** – Risa Kirshblum shared her expertise at OsgoodePD's certificate program in Clinical Risk, Negligence & Claims Management in Healthcare. Risa presented on the module "Clinical Negligence, Liability Claims and Litigation".
- **Long-Term Care Homes, COVID-19 & Personal Injury Litigation** – Andrew Porter shared his expertise at The Advocates' Society's program on *Long-Term Care Homes, COVID-19 & Personal Injury Litigation*. Andrew presented on a panel discussion on personal injury claims and related liability issues emerging in light of the COVID-19 pandemic.
- **Professional Regulation and Discipline of Health Professionals – How the Landscape has Changed** – Colin Johnston shared his expertise at the OBA Health Law program *Professional Regulation and Discipline of Health Professionals – How the Landscape has Changed*.

- **Prosecuting and Defending Professional Discipline Cases 2020** – Rebecca Jones shared her expertise at OsgoodePD's webcast program *Prosecuting and Defending Professional Discipline Cases 2020*. She presented on how to navigate examinations, interviews and inquiries.
- **Prosecuting and Defending Professional Discipline Cases 2020** – Jaan Lilles shared his expertise at OsgoodePD's webcast program *Prosecuting and Defending Professional Discipline Cases 2020*. He presented on the panel *Assessing Duties and Powers*.
- **Continuing Medical Education Seminar: Obstetrical Malpractice** – Tom Curry and Mark Veneziano shared their expertise at Mount Sinai Hospital's Continuing Medical Education Seminar. Tom discussed "*Accountability for Expert Witnesses*," while Mark presented on the topic of "*Partogram: What is the Dilemma?*".
- **Ontario Medical Association Advisory Board Meeting** – Colin Johnston presented at the Ontario Medical Association's Advisory Board Meeting. His panel discussed regulatory issues in the medical field.
- **Prosecuting and Defending Professional Discipline Cases** – Jaan Lilles presented at OsgoodePD's *Prosecuting and Defending Professional Discipline Cases* program. He shared his expertise on the panel discussion *Assessing Duties and Powers*.
- **Pleadings Should Be Useful and Not Pro Forma** – Risa Kirshblum spoke at the Law Society of Ontario's Best Practices in Medical Malpractice Litigation day on the "Pleadings Should Be Useful and Not Pro Forma " panel.
- **Trials Should Not Take Six Weeks or More** – Tom Curry spoke at the Law Society of Ontario's Best Practices in Medical Malpractice Litigation day on the "Trials Should Not Take Six Weeks or More" panel.
- **Legal and Regulatory Issues in Disaster Psychiatry** – Colin Johnston spoke at the Inaugural Psychiatric Dimensions of Disasters Training Course hosted by the Ontario Medical Association. He spoke on the legal, ethical and regulatory issues in disaster psychology.
- **Understanding and Dealing with the Litigation Process** – Nina Bombier spoke at the Osgoode Certificate program in Clinical Risk, Negligence & Claims Management in Health Care. Her panel was called "Litigation Session: Live Demonstrations - Examination in Chief and Cross-Examination of Plaintiff Expert".
- **Emerging Risks in Health Law** – Colin Johnston was a faculty member at the 2018 Ontario Bar Association's Institute. He has considerable experience in Professional Liability & Regulation and moderated the "Opioid Panel: Assessing Risks for Patients and Prescribing Physicians."
- **Clinical Risk, Negligence & Claims Management in Health Care** – Risa Kirshblum spoke at OsgoodePD's program "Clinical Risk, Negligence & Claims Management in Health Care". The program covered modules such as defence best practices, mitigation strategies, implications for risk management etc.
- **Obstetrical Malpractice: A Survival Guide for 2018** – Mark Veneziano presented at Mount Sinai Hospital's Continuing Medical Education Seminar on the topic of "How Are Assisted Conception Babies Different than Spontaneous Ones?"
- **Obstetrical Malpractice: A Survival Guide for 2018** – Tom Curry presented at Mount Sinai Hospital's Continuing Medical Education Seminar on the topic of "Stem Cells: Why Should We Recommend It?".
- **The Advocates' Society's Health Law Litigation Program** – Risa was

a faculty member at the Advocates' Society's Health Law Litigation program. She provided her expertise while speaking on the "Hot Topics in Medical Malpractice Litigation" panel.

- **Emerging Issues in Directors' and Officers' Liability 2017** – Shara N. Roy presented *Strategic Defence of Insider Trading Cases* at the Law Society of Upper Canada event "Emerging Issues in Directors' and Officers' Liability 2017" on February 16, 2017.
- **CBA 2015 National Health Law Summit** – Tom Curry participated in a panel discussion at the May 21, 2015 CBA National Health Law Summit on *A New Era for Experts*.
- **The Osgoode Certificate in Professional Regulation and Discipline in the Ontario Health Care Sector** – Nina Bombier was a speaker at this Osgoode Professional Development program on the "Discipline Hearing".
- **The Osgoode Certificate in Professional Regulation and Discipline in the Ontario Health Care Sector** – Jaan Lilles was a speaker at this Osgoode Professional Development program on Pre-Hearing Procedures & Fitness to Practice Proceedings
- **The Osgoode Certificate in Clinical Risk, Negligence and Claims Management in Health Care** – Mark Veneziano spoke on Understanding and Dealing with the Litigation Process on February 13, 2015.
- **The Osgoode Certificate in Clinical Risk, Negligence and Claims Management in Health Care** – Risa Kirshblum shared her expertise on Clinical Negligence, Liability Claims and Litigation on February 10, 2015.
- **11th Annual Obstetrical Malpractice: A Survival Guide for 2015** – Tom Curry spoke at Mount Sinai's annual program *11th Annual Obstetrical Malpractice: A Survival Guide for 2015* on the topic *Two Legal Cases from the Last Year that Should Change your Practice*.
- **11th Annual Obstetrical Malpractice: A Survival Guide for 2015** – Mark Veneziano spoke at the Mount Sinai program *11th Annual Obstetrical Malpractice: A Survival Guide for 2015* held on January 17, 2015.
- **20th Annual Regulatory Compliance for Financial Institutions** – Shara Roy and Jaclyn Greenberg were speakers at the the Canadian Institute's 20th anniversary edition of Regulatory Compliance for Financial Institutions. Shara and Jaclyn spoke on the topic of litigation implications in compliance.
- **When medical records go missing – Legal regimes and remedies in Ontario differ depending on the source of the information**
Nina Bombier and Paul-Erik Veel co-authored the article *When medical records go missing* which appeared in the July 11, 2014 issue of the *Lawyers Weekly*.
- **No-Fault Accident Compensation Systems** – Paul-Erik Veel co-authored the article *No-Fault Accident Compensation Systems* that appeared in *Research Handbook On The Economics of Torts*, edited by Jennifer H. Arlen.
- **Kernicterus: Medical and Legal Aspects** – Tom Curry presented on the topic *Kernicterus: Medical and Legal Aspects* at the 3rd Biennial Conference on Brain Injury in Children, sponsored by Sick Kids held in Toronto on July 9-11, 2013.
- **A Tamer Tort Law: The Canada-U.S. Divide** – Paul-Erik Veel co-authored a chapter that appeared in *The American Illness: Essays on the Rule of Law*

, edited by F.H. Buckley.

- **The Perils of Debating Science in the Courtroom** – Ian Binnie presented on the topic as the distinguished guest speaker at the annual meeting and dinner of the Medico-Legal Society of Toronto on May 22, 2013.
- **Obstetric Ultrasound: Setting the Standard for 2013** – Tom Curry presented on the topic at a conference hosted by the University of Toronto and Mount Sinai Hospital.
- **Understanding and Dealing with the Litigation Process** – Mark Veneziano presented on the topic using a case study on obstetrics at the Osgoode Professional Development Certificate in Clinical Risk, Negligence and Claims Management in Health Care.
- **9th Annual Obstetrical Malpractice: A Survival Guide for 2013** – Tom Curry presented at the *9th Annual Obstetrical Malpractice: A Survival Guide for 2013* hosted by Mount Sinai Hospital.
- **Volochay v College of Massage Therapists of Ontario** – Ian MacLeod presented to research lawyers on a case he argued with Peter Osborne at the Ontario Court of Appeal regarding judicial review of administrative decision-makers.
- **Social Media: Communicating with your Patients** – Risa M. Kirshblum presented at the 10th Annual Refresher in Primary Maternity Care on *Social Media: Communicating with your Patients* held at Victoria College, University of Toronto.
- **Brain Injuries in Children: Intrapartum Hypoxic-Ischemic Brain Injury: Are the ACOG Criteria/Guidelines Outdated? A Critical Evolution** – Tom Curry presented at the 2nd International Symposium on the topic.
- **The Evolving Role of Experts in Legal Action** – Tom Curry presented on the topic at the National Health Law Summit held at the Canadian Bar Association.
- **Effective Advocacy in Disciplinary Proceedings** – Tom Curry presented on the topic at the Toronto Law Association.
- **Time to Deliver: "Is there anything magical about the 30 (or 8, 15, 12 or 6) minute rule?"** – Tom Curry presented on the topic at the 8th Annual Obstetrical Malpractice: A Survival Guide for 2012.
- **Liebig v. Guelph General Hospital: Affirming the Duty Owed to a Fetus During Labour and Delivery** – Nina Bombier presented her paper *Liebig v. Guelph General Hospital: Affirming the Duty Owed to a Fetus During Labour and Delivery* at LSUC Emerging Issues in Health Law Conference.
- **Investigatory Powers into Professional Misconduct and Incompetence: Gore v. CPSO and New Amendments Requiring Cooperation from Members** – Nina Bombier presented her paper "Investigatory Powers into Professional Misconduct and Incompetence: *Gore v. CPSO* and New Amendments Requiring Cooperation from Members" at the Osgoode Professional Discipline Conference.
- **Critical Issues in Health Law: Case Law and Legislation Updates** – Nina Bombier and Anne E. Posno presented at the OBA PD Program.
- **Section 75 Investigations into Professional Competence and Misconduct: Gore v College of Physicians and Surgeons of Ontario Expands the Powers of Investigators** – Nina Bombier presented on the topic at OBA Critical Issues in Health Law Conference.

- **Managing the Risk of Liability Posed by Suicidal or Violent Patients: Developing a Suicide Prevention Program** – Eli S. Lederman speaks at the Canadian Institute's 9th Annual Conference.
- **The Problems with Wrongful Life, and various damages implications: There should be no cause of action owed to a future fetus by a physician providing medical treatment to a mother** – Anne Posno presented her paper at the 4th Annual Update on Personal Injury Law and Practice for Osgoode Professional Development.

BLOG POSTS

- **Consultants' Liability for Bad Advice: Just to Their Clients, or Does It Go Further?** – Commercial disputes between professionals and their clients are routine. However, what is comparatively rare are disputes between the consultants (or other professionals) who advise a client and the client's customers who may be harmed in some way by that client's conduct. In those circumstances, there is generally no contractual relationship between the consultant and the client's customer, and most cases have held that there is no duty of care between a professional and a person injured by the professionals' client's conduct. Lawyers, for example, have been held to potentially owe duties of care to non-clients in only the most exceptional circumstances. However, the recent decision of the British Columbia Supreme Court in *British Columbia v McKinsey* has the potential to substantially expand the scope of claims brought against professionals by persons allegedly harmed by those professionals' clients' conduct.
- **A Cautionary Tale: Admissions Against Interest in Regulatory and Subsequent Criminal Proceedings** – A recent decision from the Ontario Court of Appeal serves as a cautionary tale for regulated professionals and their counsel considering the terms of a potential resolution of discipline proceedings where related criminal proceedings may still be on the horizon. In *R v Lo*, the Court of Appeal upheld a trial judge's decision during a criminal jury trial to admit into evidence the Agreed Statement of Fact ("ASF") from a prior disciplinary hearing on related allegations before the College of Psychologists ("CPO").
- **No Notice, No Dice: Divisional Court Reiterates Need for Proper Notice of Case Against** – A recent Divisional Court case involving the College of Physicians and Surgeons of Ontario reaffirms the importance of ensuring that findings of professional misconduct by the College's Discipline Committee fairly arise from the allegations contained in the College's Notice of Hearing.
- **Class actions against investment advisors? Don't bet on it** – Class actions are common in the financial services sector. The relatively low bar for certification of such claims as class proceedings means that many such claims are certified. Yet certification is by no means automatic: where the litigation will not be significantly advanced through the resolution of common issues, courts will typically be reluctant to certify an action as a class proceeding.
- **Back from the future: Horri v CPSO affirms the need for consistency in professional discipline penalties** – In *Horri v The College of Physicians and Surgeons*, the Divisional Court reaffirms the importance of consistency and justification when a professional regulator sanctions one of its members. Penalties for misconduct should fall within the range established by previous case law, and regulators should exercise caution before departing from precedent on the basis of "changing social values."
- **Rohringer v. RCDSO: revisiting the test for interim orders against health professionals** –

Effective May 30, 2017, professional regulators under the *Regulated Health Professions Act* received a new power to temporarily restrict or suspend the licence of a health professional during the course of an investigation into allegations of misconduct or incompetence. Previously, regulators could impose such measures only after the conclusion of an investigation and commencement of a Discipline Committee proceeding. This raises the question, what is the appropriate threshold of risk that must be established in order to suspend or restrict the licence of a professional whose case is still under investigation? What evidence is required? What reasons must be given in order to justify such an order? These questions are considered in the recent decision of *Rohringer v Royal College of Dental Surgeons of Ontario* 2017 ONSC 6656.

- **Who's to Blame? Apportioning Liability in Civil Jury Trials** – When one person negligently causes an accident, the law is clear about their responsibility. But when negligence acts on the part of a number of different parties combine to create a single accident, how should responsibility for that accident be apportioned between them? This was recently addressed by the Ontario Court of Appeal in its recent decision in *Parent v Janandee Management Inc.*
- **Fixing the Mistake: Limitation Periods in Professional Negligence Cases** – Over a decade after Ontario's *Limitations Act, 2002* came into force, courts are still grappling with when a cause of action is discoverable and a limitation period starts to run. An increasingly litigated question relates to whether a limitation period runs while efforts are ongoing to fix the error that gave rise to the plaintiff's claim. The Court of Appeal for Ontario recently addressed this issue in *Presidential MSH Corp v Marr, Foster & Co LLP*.
- **The UK Supreme Court Revisits "But for" Causation in Economic Negligence Cases** – "If my grandmother had wheels, she'd be a wagon" –Yiddish proverb
- **Don't Make Clients Dig for the Truth: The Importance of Candor for Professional Service Firms** – All professionals deal with difficult clients from time to time. Difficult clients are often characterized by an aversion to receiving negative opinions and a refusal to heed the counsel of the professionals they have retained. A natural temptation when dealing with such clients might be to stop giving negative opinions to them and to instead focus on simply completing the tasks which the client has instructed. However, as the recent decision in *Western Troy Capital Resources Inc v Genivar Inc* demonstrates, in order for professional firms to avoid potential liability, they must ensure that they state their negative opinions clearly to their clients, especially in circumstances where a professional believes that the work which they are being retained to complete is futile.
- **The Admission of Expert Evidence: The Role of Impartiality** – It is commonly accepted that the evidence of expert witnesses must be impartial and that they owe a duty to the court to give fair, objective and non-partisan opinion evidence.
- **Court of Appeal clarifies law on absolute privilege** – In *Salasel v. Cuthbertson* (2015 ONCA 115), the Court of Appeal provided welcome clarification on the doctrine of absolute privilege, in a decision that revisited the case of Hassan Rasouli.

- **Deference gives way to procedural fairness in PEI decision –** Administrative lawyers and regulators should take note: in *Swart v. College of Physicians and Surgeons of Prince Edward Island* the Prince Edward Island Court of Appeal provided express guidance in the prosecution of complaints against doctors.
- **Court of Appeal Rules PHIPA Does Not Oust Common Law Tort of Breach of Privacy –** On an appeal from a Rule 21 motion, the Court of Appeal ruled that the *Personal Health Information Protection Act*, S.O. 2004, c. 3, Sch. A (*PHIPA*) does not create an exhaustive code precluding a civil action for intrusion upon seclusion.
- **Implied Waiver of Solicitor-Client Privilege is Narrow –** The Ontario Superior Court of Justice has reinforced the principle that a persons privileged communications with his or her lawyer should be strictly protected, except in narrow circumstances.

SELECT NEWS ARTICLES

- **The 2024 Lexpert Directory Recognizes Lenczner Slaght's Litigation Excellence –** Lenczner Slaght's litigators continue to be recognized by their peers as the foremost practitioners in their fields.
- **Lenczner Slaght Litigators Recognized as Best Lawyers in Canada –** In the latest edition of *Best Lawyers in Canada*, 41 of our expert litigators are recognized for their expertise across 24 practice areas. The following lawyers have also been recognized as "Lawyer of the Year" for receiving the highest overall peer-feedback in their practice areas in Toronto.
- **Lenczner Slaght's Litigation Excellence Recognized in 2023 Lexpert Directory –** Following comprehensive peer review surveys and interviews with senior members in the legal profession, the 2023 *Canadian Legal Lexpert Directory* has recognized 31 of the firm's expert litigators for their experience, knowledge, and precision, with 108 rankings spanning 17 practice areas.
- **OTLA Recognizes Tom Curry as a Leader of the Personal Injury Bar –** Lenczner Slaght's Managing Partner, Tom Curry, is the 2022 Defence Counsel Honouree of the Ontario Trial Lawyers Association's Celebration of the Personal Injury Bar. The event will be held on November 18, 2022 at the InterContinental Toronto Centre.
- **Lenczner Slaght Ranked Band 1 in Chambers Canada for 5th Consecutive Year –** Canada's leading litigation firm and its expert litigators continue to be recognized in the latest edition of world-renowned directory, Chambers & Partners.
- **Lenczner Slaght Litigators Recognized Among the Best Lawyers in Canada –** In the latest edition of *Best Lawyers in Canada*, 39 of our expert litigators are recognized by their peers for their expertise across 24 practice areas.
- **The 2022 Lexpert Directory Recognizes Lenczner Slaght's Litigation Excellence –** 31 of our expert litigators are recognized by their peers as the foremost practitioners across 18 fields.
- **Welcome Back Sam Johansen! –** We are thrilled to have Sam Johansen return to the firm as our CMPA Counsel.
- **Chambers Canada Recognizes Lenczner Slaght's Litigation Excellence –** Canada's leading litigation firm and its expert litigators continue to advance their position in the latest edition of world-renowned directory, Chambers & Partners.
- **Lexpert Recognizes Lenczner Slaght's Leading Health Sciences Expertise –**

The inaugural issue of Lexpert's Special Edition on Canada's Leading Health Sciences Lawyers recognizes 11 Lenczner Slaght lawyers for their extensive industry experience. The rankings are also published in the June issue of the Globe & Mail's Report on Business.

- **The 2021 Lexpert Directory Recognizes 30 Lenczner Slaght Lawyers** – An increasing number of our expert litigators are recognized by their peers as the foremost practitioners in their fields.
- **Lenczner Slaght Recognized as a Top-Tier Litigation Firm by Chambers Canada** – Canada's leading litigation firm and its expert litigators continue to be recognized by world-renowned directory, Chambers & Partners.
- **Best Lawyers in Canada Recognizes Lenczner Slaght's Litigation Expertise** – Lenczner Slaght is proud to announce that 33 of our expert litigators are recognized in *Best Lawyers in Canada 2021*. Our lawyers received a total of 128 rankings, up from 100 in 2020.
- **With insurance expiring and a questionable waiver, St. F.X. welcomes students** – Rebecca Jones was quoted in The Chronicle Herald article "*With insurance expiring and a questionable waiver, St. F.X. welcomes students*".
- **Lenczner Slaght Once Again Named Medical Defense/Health Firm of the Year** – Canada's leading litigation firm continues to be recognized for its expertise in Medical Defense and Health Law at yesterday's Benchmark Canada Awards.
- **Lexpert Highlights Lenczner Slaght's Professional Excellence** – Lenczner Slaght's litigators continue to be recognized by their peers as the foremost practitioners in their fields.
- **Lenczner Slaght Welcomes Vinayak Mishra** – Exceptional associates continue to choose Canada's leading litigation firm, strengthening the firm's talent pool, knowledge, and experience.
- **Best Lawyers in Canada Recognizes Lenczner Slaght with 100 Rankings** – In the latest edition of *Best Lawyers in Canada*, 28 Lenczner Slaght lawyers earned a total of 100 rankings, up from 86 in 2019.
- **Lenczner Slaght Litigators Ranked in Best Lawyers in Canada** – Canada's leading litigation firm is proud to announce that 25 of the firm's 58 lawyers have been recognized in the *Best Lawyers in Canada 2019* publication across multiple categories.
- **Lexpert Recognizes Lenczner Slaght's Professional Excellence** – An increasing number of the firm's lawyers have been ranked by their peers as leading practitioners in their field.
- **Lenczner Slaght Ranked Among the Best** – Almost half of the leading litigation firm's lawyers are recognized in the *Best Lawyers in Canada*.
- **Lenczner Slaght Shines in 2017 Lexpert Rankings** – Lenczner Slaght's litigators continue to be recognized by their peers as leading practitioners in their fields according to the 2017 Canadian Legal Lexpert Directory.
- **Jonathan Chen Joins Lenczner Slaght** – Canada's leading litigation firm continues to attract top talent.
- **Three Lenczner Slaght cases featured in Lexpert's Top 10 Business Decisions of 2015** – Canada's leading litigation practice acted as counsel on the top case in Lexpert's annual ranking
- **Lenczner Slaght Lawyers Repeatedly Ranked Among the Best** – Half of the firm's lawyers are ranked as leading practitioners and three named

"Lawyer of the Year" in the latest Best Lawyers in Canada Directory.

- **20 Lenczner Slaght Lawyers Recognized in 2015 Lexpert Directory** – Recognized by Canadian Legal Lexpert® Directory as leading practitioners.
- **Divisional Court Dismisses Groia Appeal** – Tom Curry, Jaan Lilles and Andrew Porter acted as counsel for the Law Society of Upper Canada.
- **Colleagues defend Bre-X lawyer in Law Society fight** – Tom Curry and Jaan Lilles were quoted in the Toronto Star on January 9, 2015.
- **Premier practice comprised of Toronto's premier litigators** – Legal 500 Canada recommends Lenczner Slaght in Dispute Resolution, Intellectual Property, Labour and Employment Law.
- **Negligence proof onus on plaintiffs, court reaffirms** – Nina Bombier was quoted in the October 10, 2014 issue of the Lawyers Weekly on the decision in Mangal et al. v. William Osler Health Centre et al.
- **Lenczner Slaght Welcomes Four New Associates** – Canada's leading litigation practice grows to 53 lawyers.
- **23 Lenczner Slaght Lawyers Ranked Among the Best** – Nearly half of the firm's 49 lawyers are ranked as leading practitioners and two named "Lawyer of the Year" in the latest Best Lawyers in Canada Directory.
- **Lenczner Slaght Increases Rankings in 2014 Lexpert Directory** – Canada's leading litigation practice continues to add new names to the list.
- **Lenczner Slaght Welcomes Two New Partners** – Canada's leading litigation practice grows to 20 partners with newest additions.
- **Lenczner Slaght in Top Tier and 11 Lawyers Ranked as Stars** – Canada's leading litigation practice also wins two national impact cases.
- **Lenczner Slaght Lawyers Win Top Peer Ratings** – Recognized by Canadian Legal Lexpert Directory as leading practitioners.
- **Overbearing lawyer criticized in discipline case** – William C. McDowell and Ryan Stewart Breedon obtained a rare stay of a discipline prosecution by the Association of Professional Engineers of Ontario.