

DAVID STRATAS

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David Stratas, 47, was called to the Bar of Ontario in 1988 after the completion of history studies at Queen's University (1979-1981), legal studies at Queen's University (1981-1984, LL.B. 1984), and graduate legal studies at Oxford University (1984-1986, B.C.L. 1986, first class standing). Mr. Stratas was also a law clerk to the Hon. Justice Bertha Wilson of the Supreme Court of Canada (1986-1987).

Mr. Stratas is a litigation partner in the national law firm of Heenan Blaikie, practising in almost all areas of law, but especially in the areas of constitutional, administrative and regulatory law. He has acted as counsel for a wide variety of corporations, administrative tribunals, municipalities and individuals in many civil, regulatory and criminal cases in all levels of court, including ten times in the Supreme Court of Canada.

He is often retained by lawyers outside of his firm to prepare formal legal opinions, research memoranda, written submissions and court briefs in various matters.

Mr. Stratas has spoken at over seventy-five conferences and has authored over fifty articles and papers, primarily in the areas of constitutional, administrative and regulatory law. From 1990-2001, he authored *Direction from the Supreme Court of Canada: The Charter of Rights in Litigation*, a well-known looseleaf service analyzing Supreme Court of Canada judgments concerning the *Charter of Rights*. He has also commented on constitutional law and other issues for the CTV national network and Canada's national newspaper, the *Globe and Mail*.

Since 1994, Mr. Stratas has been a member of the Faculty of Law at Queen's University. There, he annually conducts an upper-year seminar on constitutional law, for which he has won multiple faculty teaching awards. In 2005, the Faculty of Law presented him with the H.R.S. Ryan Award, one of its highest alumni distinctions, and is the only private sector lawyer so honoured, the other honorees being a prominent judge and a well-known Senator.

Mr. Stratas is regularly invited by judges to present on constitutional law, administrative law and other areas of law to judges at judicial conferences, judicial educational sessions and private educational retreats and is frequently the only private sector lawyer so invited. He is a member of the Supreme Court Advocacy Institute. He is being inducted into the prestigious American College of Trial Lawyers in March, 2008.

The *Chambers Global Guide* has ranked Mr. Stratas as one of the top litigators in Ontario, describing him (2006) as "widely praised" as a "prodigious worker" and "a creative force to be reckoned with – he's got ideas you'd never think of". The annual *Lexpert* survey has rated him one of the lawyers "repeatedly recommended" by his peers. He is also one of the lawyers featured in the *The Best Lawyers in Canada*.

Mr. Stratas is also a member of the Canadian Bar Association. In the past, he has served on the Executive of the Ontario Bar Association's Constitutional and Civil Liberties Section and on the Board of Directors of the Canada AIDS Russia Project, a multi-year HIV/AIDS training and research project in Russia.

Appeared as Counsel

Mr. Stratas has been retained on many important cases that have settled and others in which he played a very prominent role behind the scenes. Relatively few of the cases he has been involved in have reached court. The following is a list of the cases on which he has publicly acted as counsel:

1515545 Ontario Ltd (c.o.b. Fasinations) v. Niagara Falls (City) (2006), 78 O.R. (3d) 783 (C.A.) (*Constitutional Law — Charter, ss. 7, 8 — Tort of Abuse of Public Office — Availability of Summary Judgment*)

530432 Ontario Ltd. v. Viner, [2002] O.J. No. 56 (S.C.J.) (*Striking pleadings — Oppression and share valuation; derivative claims; want of particularity; rule in Foss v. Harbottle*)

AB Capital Corp. et al. v. Canada (Minister of Citizenship and Immigration), [2000] F.C.J. No. 1156 (F.C.T.D.) (*Administrative Law — Judicial Review — Suspension of Immigration Funds — bad faith, improper purpose, irrelevant considerations and lack of statutory jurisdiction*) (*numerous Federal Court practice issues — requests to admit in judicial review proceedings, propriety of tribunal production request, case management proceedings, addition of “improper purpose” ground to judicial review proceeding, etc.*)

AB Capital Corp. et al. v. Canada (Minister of Citizenship and Immigration) (*Crown Privilege — s. 37 of the Canada Evidence Act — procedures restricting counsel's access to documents for the purposes of making submissions are unconstitutional*)

Adam v. United States, Ont. C.A., unreported, Nov. 12, 2002 (*Extradition Act, s. 62 — stay of surrender order pending judicial review*)

Atlantic Prudence Corp. et al. v. Canada (Minister of Citizenship and Immigration), [2000] F.C.J. 436 (F.C.T.D.) (*Amending notice of application to add allegations of bad faith decision-making and abuse of public office*)

Beauchamp (Litigation Guardian) v. North Central Predators AAA Hockey Association, [2006] O.J. No. 2432 (C.A.) (*Discriminatory Business Practices Act -- Mootness*)

Bell Canada v. Canadian Telephone Employees' Association et al., [2003] 1 S.C.R. 884 (Constitutional Law — independence of tribunals — unwritten constitutional principles — s. 2(e) of the *Canadian Bill of Rights* — s. 27 of the *Canadian Human Rights Act*)

Biscotti v. Ontario Securities Commission (1990), 13 O.S.C.B. 3137, 40 O.A.C. 129, 72 D.L.R. (4th) 385, 74 O.R. (2d) 119, [1991] O.J. No. 35 (Div. Ct.); rev'd in part (1991), 1 O.R. (3d) 409, 76 D.L.R. (4th) 762, 45 O.A.C. 293 (C.A.); lv. dismissed, S.C.C., June 27, 1991 (*Constitutional Law — s. 7 Charter — Administrative Law — Disciplinary Tribunals*)

Brant Investments Ltd. et al. v. KeepRite Inc. et al., [1991] O.J. No. 683, 45 O.A.C. 320, 80 D.L.R. (4th) 161, 3 O.R. (3d) 289, 1 B.L.R. (2d) 225 (C.A.) (*Corporate-Commercial Law — Fiduciary Duty, Statutory Oppression, Valuation*)

Brown v. Durham Regional Police Force (*Constitutional Law — s. 9 Charter — Arbitrary Detention — Ancillary Powers Doctrine*)

Canada (Competition Act, Director of Investigation and Research) v. Warner Music Canada Ltd., [1997] C.C.T.D. No. 53 (Comp. Trib.); also intervention motion, [1997] C.C.T.D. No. 51 (Comp. Trib.) (*Jurisdictional Challenge — Subject-Matter Jurisdiction and Jurisdiction Over the Person — Service ex juris — Extraterritoriality*)

Canadian Express Ltd. v. Blair, [1989] O.J. No. 1619, 46 B.L.R. 92 (H.C.J.) (*Corporate-Commercial Law — Fiduciary Duty — Corporate Meetings*)

Canadian Western Bank v. Alberta, under reserve, S.C.C. (*Constitutional Law — Division of Powers — Banking Law and Insurance Law — Doctrine of Paramountcy — Doctrine of Interjurisdictional Immunity*)

Citizens Mining Council of Newfoundland and Labrador v. Voisey's Bay Nickel Company Limited et al., [1999] F.C.J. No. 273, (1999), 163 F.T.R. 36 (F.C.T.D.) (*Administrative Law — Environmental Law — Ministerial decisions concerning environmental assessments — Procedural Law — Prematurity*)

Criminal Lawyers' Assn. v. Ontario (Ministry of Public Safety) 2007 ONCA 392 (Ont. C.A.), rev'g (2004), 70 O.R. (3d) 332 (Div. Ct.) (*Constitutional Law — Administrative Law — Freedom of Information — Law enforcement and solicitor and client privilege exemptions — application of Charter to administrative tribunals — s. 2(b) Charter — whether s. 2(b) enhances ability to obtain access to government information*). Leave to appeal to the Supreme Court of Canada has been granted: [2007] S.C.C.A. No. 382.

Davison v. Inco Limited (1992), 8 O.R. (3d) 464, [1992] O.J. No. 909, 9 C.P.C. (3d) 155 (Gen. Div.) (*Access to property by experts prior to discovery*)

Del Zotto v. Her Majesty the Queen, [1999] 1 S.C.R. 3, rev'g (1997), 116 C.C.C. (3d) 123, 147 D.L.R. (4th) 457, 215 N.R. 184, 97 D.T.C. 5328, [1997] 3 F.C. 40, [1997] 3 C.T.C. 199, 46 C.R.R. (2d) 324 (F.C.A.) which rev'd (1997), 143 D.L.R. (4th) 340, 41 C.R.R. (2d) 63, [1997] 2 C.T.C. 103, 97 D.T.C. 5145, [1997] 2 F.C. 428, 125 F.T.R. 161 (*Constitutional Law — ss. 7 and 8 of Charter — Validity of Inquiries — Fundamental Justice and Unreasonable Search and Seizure — Validity of s. 231.4 of the Income Tax Act*)

Del Zotto v. Canada (Minister of National Revenue), [1993] 93 D.T.C. 5455, [1993] 2 C.T.C. 342, 161 N.R. 143 (F.C.A.), lv. to S.C.C. refused (1994), 171 N.R. 224n (*Administrative Law — Judicial Review of decision to establish Inquiry — Sufficiency of Evidence*)

Del Zotto v. Canada: numerous proceedings concerning stay of an inquiry under s. 231.4 of the *Income Tax Act*. Stays (suspensions) of this Inquiry granted in the following decisions: [1993] 2 C.T.C. 46, (1993), 93 D.T.C. 5271, [1993] F.C.J. No. 533 (F.T.D.); (1994), 94 D.T.C. 6170, 71 F.T.R. 1, [1994] 1 C.T.C. 254, [1994] 2 F.C. 640, [1993] F.C.J. No. 1264 (F.T.D.). Stays reconfirmed at (1995), 95 D.T.C. 5518, 100 F.T.R. 15, [1995] 2 C.T.C. 298, [1995] 3 F.C. 507, [1995] F.C.J. No. 1107 (F.T.D.). Stays partially lifted at (1995), 95 D.T.C. 5636, 103 F.T.R. 150, [1995] F.C.J. No. 1359, [1996] 1 C.T.C. 120 (F.T.D.), but reimposed before Inquiry could begin at [1996] F.C.J. No. 294, [1996] 1 F.C. 145, [1996] 2 C.T.C. 22, 96 D.T.C. 6222, 195 N.R. 74, 111 F.T.R. 239 (F.C.A.). Other motions: (1995), 95 D.T.C. 5122 (F.T.D.), [1995] 1 C.T.C. 182 (F.T.D.), 90 F.T.R. 200 (F.T.D.).

Del Zotto v. Canada, [1995] T.C.J. No. 1499, [1996] 1 C.T.C. 2767 (Tax Court) (*Constitutional Law - ss. 7 and 8 of Charter — Standing — Pre-Requisites for Establishment of Inquiries*)

Dickie v. Dickie, [2007] 1 S.C.R. 346 (*Family Law — Remedies on default — Contempt of court — Availability of contempt for non-compliance with security orders — right to an audience in court when in non-compliance with orders*)

East York (Borough) v. Ontario (Attorney-General) (1997), 34 O.R. (3d) 789, 41 M.P.L.R. (2d) 137, 45 C.R.R. (2d) 237, [1997] O.J. No. 3064 (Gen. Div.) (*Constitutional Law — Municipal Law — ss. 2(b), 2(d), 3 of the Charter — Challenge to Megacity Legislation*)

E.S. Fox Limited v. United Steelworkers of America, unreported, September 15, 1998 (Div. Ct.) (*Administrative Law — Judicial Review — Interpretation of s. 57 of the Employment Standards Act*)

Fiatallis North America Inc. v. Pigott Construction Ltd., [1992] O.J. No. 178, 3 P.P.S.A.C. (2d) 30 (Gen. Div.) (*Sufficiency of Pleadings — Creditors' Oppression — Personal Property Security*)

Fletcher v. Manitoba Public Insurance Co., [1990] 3 S.C.R. 191, 5 C.C.L.T. (2d) 1, 1 C.C.L.I. (2d) 1, 71 Man. R. (2d) 81, 30 M.V.R. (2d) 261, 74 D.L.R. (4th) 636, 116 N.R. 1, 44 O.A.C. 81, [1990] I.L.R. 1-2672 (*Torts — Liability in Tort for Non-Feasance — Negligent Misrepresentation — Duty to Warn*)

Gartree Investments Ltd. v. Cartree Enterprises Ltd., [2002] O.J. No. 753 (S.C.J.) (*Partnership law — Partition and sale of properties*)

General Motors v. C.A.W. (1996), 31 C.L.R.B.R. (2d) 161, [1996] O.L.R.B. Rep. 409 (O.L.R.B.) (*Constitutional Law — Labour Law — Day of Protest — ss. 2(b) and 1 of the Charter*)

Hall v. Powers et al. (2005), 59 O.R. (3d) 423 (S.C.J.) (*Charter, ss. 2(a), 2(b), 2(d) and 15 — denominational school rights under s. 93 of the Constitution Act, 1867 — injunctive relief*)

Imperial Consultants Ltd. v. Canada (Minister of Citizenship and Immigration) (*Access to Information Act — application of exemptions*)

J.D. Irving Ltd. V. ILA, Local 273, [2006] F.C.J. No 809 (C.A.) (*Constitutional Law — Division of Powers — Relitigation and abuse of process — Administrative Law — Judicial Review — Standard of Review — Labour Relations*)

Kobilke v. University of Toronto, [2004] O.J. No. 2666 (S.C.J.) (*Open courts principle*)

Laforme v. Canada (Minister of National Revenue), [1991] F.C.J. No. 447, [1991] 2 C.T.C. 28, 48 F.T.R. 92, 91 D.T.C. 5372 (F.T.D.) (*Income Tax — Application Against Limitation Period*)

OMERS — a number of unreported judicial reviews (*Administrative Law — Family Law — Definition of Spouse — Standard of Review*)

Ontario (Attorney General) v. Ontario (Assistant Information and Privacy Commissioner) (1996), 90 O.A.C. 181, [1996] O.J. No. 2478 (Div. Ct.) (*Administrative Law — When Freedom of Information Act Applies*)

Mandeville v. The Manufacturers Life Insurance Company, [2002] O.J. No. 5386 (S.C.J.) (*Class Actions — Certification — Fiduciary Duty and Negligence — Administrative Orders, Collateral Attack, Issue Estoppel and Abuse of Process — Conflict of Laws — Recognition of Foreign Orders*)

Peel (Regional Municipality) v. Ontario, [1990] O.J. No. 2266, 42 O.A.C. 356, 75 D.L.R. (4th) 523, 1 O.R. (3d) 97, 2 M.P.L.R. (2d) 121 (C.A.) (*Restitution — Constitutional Law*)

Peel (Regional Municipality) v. Canada; Peel (Regional Municipality) v. Ontario, [1992] 3 S.C.R. 762, 12 M.P.L.R. (2d) 229, 98 D.L.R. (4th) 140, 59 O.A.C. 81, 144 N.R. 1 (*Restitution — Constitutional Law*)

Pritchard v. Ontario (Human Rights Commission) (1998), 45 O.R. (3d) 97 (Div. Ct.) (*Administrative Law — Standard of Review — Enforceability of Employment Releases*)

R. v. Adam, unreported, Ont. C.A., November 12, 2002 (*Extradition Law — Constitutional Law — ss. 6, 7, 12 and 24 of the Charter — Restraining Order Preventing Removal From Canada*)

R. v. Ethyl Canada Inc., unreported, Prov. Off. Ct., August, 1996 (*Environmental Law — Water Pollution — Test Applicable to Industrial Effluent*)

R. v. Ethyl Canada Inc., [1998] O.J. No. 3478 (*Environmental Law — Constitutional Law — Costs Against the Crown — Charter Damages for Failure to Disclose*)

R. v. Imperial Oil (1996), 17 C.E.L.R. (N.S.) 12 (Ont. Prov. Div.), accused's appeal dismissed, (1997), 25 C.E.L.R. (N.S.) 182 (Ont. C.A.) (*Environmental Law — Water Pollution — Test for Impairment*)

R. v. Inco Limited, unreported, Prov. Off. Ct., February 16, 1998, rev'd (1999), 33 C.E.L.R. (N.S.) 240 (Ont. C.J.); leave granted (1999), 139 C.C.C. (3d) 477 (Ont. C.A.); appeal allowed (2001), 54 O.R. (3d) 495 (C.A.), leave to appeal to the S.C.C. dismissed (*Environmental Law — Constitutionality of Ministry Investigations — ss. 7, 8, 9, 10 and 11(d) of the Charter — Interpretation of s. 30 of the Ontario Water Resources Act*)

R. v. Inco Limited, unreported, Prov. Off. Ct., November 22, 1996; rev'd, [1997] O.J. No. 4941 (Gen. Div.) (*Environmental Law — Crown's Power to Select Judge or Justice to Try Charges*)

R. v. Inco Limited, unreported, Prov. Off. Ct., April 3, 1997; rev'd, [1997] O.J. No. 4941 (Gen. Div.) (*Environmental Law — Dismissal on Crown's Failure to Appear*)

Numerous environmental investigations and approximately 15 contested trials of regulatory charges.

R. v. Stelco Inc., [1996] O.J. No. 3648, 21 C.E.L.R.(N.S.) 159 (Gen. Div.) (*Provincial Courts — Subject-Matter Jurisdiction — Jurisdiction Over the Person*)

R. v. Stelco Inc., unreported, Prov. Off. Ct.; appeal partly allowed, Ont. C.J. (*Environmental Law — Interpretation of s. 30, Water Resources Act — Constitutional Law — Abuse of Process Motion*)

Re Banks, unreported, Ont. Securities Commission, June, 2003 (*Variation application — request to adjourn pending judicial review*)

Re Banks (Judicial Review from OSC decision — failure to give hearing)

Re National Cheese & Food Co., [1998] O.J. No. 1988 (*Mutual Legal Assistance in Criminal Matters Act*)

Ref Re Pesh Creek Pipeline, unreported, Federal Court of Appeal, January 8, 1997 (*Constitutional Law — Division of Powers — Pipelines*)

Regin Properties v. Logics Holdings Inc., [1992] O.J. No. 2780 (*Procedural Law - Counsel of Record — Conflict of Interest*)

Roach v. Ontario (*Worker Safety and Insurance Appeals Tribunal*), [2005] O.J. 1295 (C.A.) (*Administrative Law — Judicial Review — Standard of Review*)

Schreiber v. Germany (2000), 48 O.R. (3d) 521 (S.C.J.), appeal dismissed (2001), 52 O.R. (3d) 577 (C.A.), [2002] 3 S.C.R. 269 (*Constitutional Law — Charter, s. 9 — Arbitrary Detention — Regulatory Negligence — Abuse of Power — State Immunity — Procedural issues*)

Schreiber v. Canada (*Attorney General*) (2000), 48 O.R. (3d) 521 (S.C.), leave to appeal granted [2000] O.J. 4858 (Div. Ct.), appeal allowed (2001), 57 O.R. (3d) 316 (C.A.), application for leave to appeal to the Supreme Court dismissed (*Simultaneous Civil and Criminal Proceedings — Availability of Stays of Proceedings*)

Singh v. Canada (A.G.); *Leblanc v. Canada*, [1991] O.J. No. 84, 75 O.R. (2d) 615, 75 D.L.R. (4th) 343 (Gen. Div.), [1991] O.J. No. 713, 47 O.A.C. 391, 3 O.R. (3d) 429, 80 D.L.R. (4th) 641 (Ont. C.A.) (*Constitutional Law — Power to Appoint Senators*)

Smith v. Money Mart, [2007] O.J. No. 46 (S.C.J.) (*Class actions — Certification — Constitutional law — minimum mens rea under s. 7 of the Charter — restitution — tracing — invalidity of contracts on the ground of public policy — s. 347 of the Criminal Code*)

Smith v. National Money Mart Co., [2005] O.J. No. 2660 (S.C.J.) (*Class actions — Enforceability of arbitration clause — Tort of conspiracy — Jurisdiction over foreign defendant*)

Smith v. National Money Mart Co. (2006), 80 O.R. (3d) 81 (C.A.) (*Class actions — Tort of Conspiracy — Alter ego theory of liability — Jurisdiction over foreign defendant — Forum conveniens*)

Sudbury (*Regional Municipality*) *v. Ontario* (*Director of the Approvals Branch, Ministry of the Environment and Energy*) (1996), 18 C.E.L.R.(N.S.) 296, 128 D.L.R. (4th) 765, 86 O.A.C. 66 (Div. Ct.) (*Administrative Law — Environmental Law — Jurisdiction of Environmental Appeal Board*)

Telecommunications Workers Union v. Canadian Industrial Relations Board, 2005 FCA 83 (Application for stay of labour board decision pending judicial review)

Télé-mobile Company v. Telecommunications Workers Union, 2004 FCA 268 (Application for stay of labour board decision pending judicial review)

Télé-Mobile Co. v. Telecommunications Workers Union, 2004 FCA 438 (Administrative Law — Judicial Review — Standard of Review — interpretation of Canada Labour Code — Labour relations — status of employees following merger — Constitutional Law — Freedom of Association)

Telus Advanced Communications v. Telecommunications Workers Union, 2002 FCA 310 (Administrative Law — Judicial Review — Standard of Review — interpretation of Canada Labour Code — Labour Relations — status of employees following merger)

Telus Communications Inc. v. Telecommunications Workers Union, 2005 FCA 146 (Application for stay of labour board decision pending judicial review)

Telus Communications Inc. v. Telecommunications Workers Union, 2005 FCA 262 (Administrative Law — Judicial Review — Standard of Review — interpretation of Canada Labour Code — Labour relations — Allegations of Bias — Constitution of hearing tribunal)

University of Toronto v. John N. Harbinson Ltd. (2005), 78 O.R. (3d) 547 (S.C.J.) (Appeal on a jurisdictional issue from an arbitration — whether arbitration constitutes a collateral attack against Commissioner of Patents proceedings)

Vaughan v. Toronto, [1990] S.C.C.A. No. 78 (Property Law — Expropriation — Municipal Law)

Walmsley v. Ontario (Attorney General), [1997] O.J. No. 2485, 34 O.R. (3d) 611, 101 O.A.C. 140 (Ont. C.A.) (Administrative Law — Freedom of Information Law — Jurisdiction of Information and Privacy Commissioner)

Wilson et al. v. Ontario Hydro, [1998] O.J. No. 5068 (Injunctions — Labour Law — Pensions Law)

Xerox Canada Inc. v. Ontario Municipal Employees Retirement System (1991), 3 B.L.R. (2d) 68, [1991] O.J. No. 1154 (Procedural Issues — Early Access of Experts to Records)

Selected Other Significant Matters (acted as counsel but matter settled or ongoing or heavily involved but not as counsel)

Augustine v. Inco (Environmental Law — Liability for Alleged Nuisance — class action)

Casco v. London (Civil Liability for Environmental Clean Up — Professional Negligence)

Centre Patronale v. Canada (Minister of the Environment) (Administrative Law — Canadian Environmental Protection Act, s. 35 — Jurisdiction to Make Emergency Order)

Christie v. Irving Oil Limited, unreported, N.B.C.A. (Constitutional Law — ss. 7, 8 and 9 of the Charter — Challenge to Subpoena)

Ford Motor Co. of Canada v. Ontario (Human Rights Commission) (Judicial Review from Board of Inquiry decision)

Genentech v. Canada (Patented Medicines Prices Review Board) (Constitutional Law — Division of Powers — Jurisdiction of Board — Scope of Federal Power Over Patents — Staying Board Proceedings)

Grant v. A.E.C.L. (Freedom of Information — Administrative Law)

Howe v. I.C.A.O. (Administrative Law — Discipline Board — Duty of Fairness and Disclosure — Stay of Board Proceedings)

Imperial Consultants Canada Ltd. v. Canada (Minister of Citizenship and Immigration) (Access to Information Appeal)

Imperial Oil v. Nova Scotia (Superintendent of Pensions) (Administrative Law — Leave to Appeal to S.C.C.)

Imperial Oil v. Ontario (Superintendent of Pensions) (Administrative Law — Leave to Appeal to S.C.C.)

Incorporated Broadcasters et al. v. Global et al. (Application for leave to appeal to the Supreme Court of Canada — forum non conveniens as applied to federal causes of action)

Innu Nation v. Attorney General of Canada et al. (Administrative Law — Aboriginal Law — Environmental Assessment)

Knockagh International Ltd. v. Taurus Capital Markets Ltd. et al. (Securities Law — civil liability)

The Labrador Inuit Association v. The Attorney General of Canada (Administrative Law — Aboriginal Law — Environmental Assessment)

LAC Minerals v. Noranda (Environmental Law — Contractual Liability for Mine Clean-Up)

Mathews v. The T. Eaton Co. Ltd. (Class Actions — Wrongful Dismissal)

Mladenov Group Enterprises Inc. v. Beak International Incorporated and Beak Consultants Limited (Professional Negligence)

Nutrisystem v. Canada (Health and Welfare) (Constitutional Law — Charter, ss. 1 and 2(b) — Food and Drug Act and Regulations — Advertising Restrictions)

Oxford Exploration Inc. v. Granges Inc. and Outokumpu Mines Limited (Contract Law — Mining Law — Joint Venturers — Rights of First Refusal)

Pakka v. Nygard (Constitutional Law — challenge to Child Support Guidelines)

Periard v. TVOntario (Administrative Law — Procedural Fairness — Constitutional Law — Broadcasting)

Pickering v. Ontario (Ministry of the Environment and Energy) and Ontario (Interim Waste Authority); Vaughan v. Ontario (Ministry of the Environment and Energy) and Ontario (Interim Waste Authority) (Administrative Law — Environmental Law — Improper Purpose)

R. v. A.E.C.L. (Criminal Law — Alleged Violation of Atomic Energy Regulations)

R. v. Brocklebank (Criminal Law — Stay of Courts Martial Trial Division)

R. v. Consolidated Maybrun, [1998] 1 S.C.R. 706 (Administrative Law — Criminal Law — Doctrine of Collateral Attack Against Administrative Orders)

R. v. Dallmeyer (Charter, s. 11(b), Unreasonable Delay)

R. v. Imperial Oil (Environmental Law — Canadian Environmental Protection Act — Defence to Prosecution)

R. v. Irving Oil Limited, unreported, N.B. Prov. Ct., April, 1997 (Environmental Law — Air Pollution — Defence to Prosecution)

R. v. Liquid Carbonic, unreported, Ont. Gen. Div. (Competition Law — Constitutional Law — Defence to Prosecution — Challenge to Search Warrants — Charter, s. 8)

R. v. Paul, unreported, N.B.C.A. (Criminal Law — Aboriginal Law — Practice — Interventions)

R. v. Peel Regional Police Service (Contempt of Court)

RJR-MacDonald v. Canada (Constitutional Law — Challenge to Advertising Restrictions in Tobacco Products Control Act — Charter, ss. 1 and 2(b))

Roell v. Canada (Minister of Fisheries and Oceans) (Administrative Law — Seal Hunt Observation Licences)

Sarkissian v. R.C.M.P. (Torts — Damages — False Arrest — Charter, ss. 9, 10 and 24(1))

Schachter v. Canada (Constitutional Law — Underinclusive Legislation — Remedies — Charter, ss. 15, 24 and 52)

Schreiber v. Canadian Broadcasting Corporation (Defamation)

St. Marys Paper v. Price Waterhouse (Bankruptcy — Pensions — Constitutional Law — Paramountcy)

Vonk v. Canada (Attorney General) (Criminal Law — Constitutional Law — Search and Seizure Under Mutual Legal Assistance in Criminal Matters Act — Charter, s. 8)

Yashin v. National Hockey League, [2000] O.J. No. 3306 (S.C.J.) (Judicial review of arbitral ruling — jurisdictional issues)

There are many substantial matters not listed because the matter settled without any public disclosure of the existence of the dispute.

Regularly retained by Department of Justice (Canada) to provide training to its lawyers across Canada concerning factum writing and written advocacy.

Retained to design federal-provincial interdelegation scheme for regulation of a particular industry.

Retained to chair fact-finding and advisory committee for a provincial Ministry.

Advice Work

Formal opinions on all aspects of constitutional law, including ss. 1, 2(b), 2(d), 3, 6, 7, 8, 9, 10, 11, 12, 13, 15, 23 and 24 of the *Charter*, ss. 35 and 52 of the *Constitution Act*, 1982, ss. 53, 54, 90, 91, 92, 92A, 93, 96-101 and 125 of the *Constitution Act*, 1867,

paramountcy issues, issues concerning the *Canadian Bill of Rights*, treaty and other rights of aboriginal peoples and the emerging unwritten principles jurisprudence.

Formal opinions on all aspects of administrative law: standard of review, procedural fairness, bias, improper purpose, fettered discretion, irrelevant considerations, jurisdictional issues, retrospectivity and retroactivity, availability of collateral attack, regulation-making powers, discriminatory/unreasonable regulations, statutory authorization for regulations, rule-making powers, and utory interpretation.

Periodically retained to give advice work in many other areas, especially concerning contract, tort, fiduciary and trust liabilities.

Legal Writing, Teaching and Speaking

2008

- “Walking Confidently on Thin Ice: Managing Weaknesses and Exploiting Strengths” in Cromwell T., ed. *Writing Factums* (coming March, 2008).
- *Judgment Writing and Deciding Cases*, a presentation to the Immigration and Refugee Board (Toronto), scheduled for January, 2008.
- Practising Public Law, meeting of Ontario Court of Appeal Law Clerks, scheduled for February, 2008.
- *Judgment Writing*, a presentation to the Ontario Municipal Board (Toronto), invited and to be scheduled.
- C.I.A.J. judicial conference on delay in administrative justice (Ottawa), scheduled for June, 2008.
- National Judicial Institute conference for the Newfoundland judiciary, Remedies, scheduled for June, 2008.
- National Judicial Institute conference, *Charter Issues*, Montreal, QC, scheduled for July, 2008.

2007

- Canadian Institute, *Judgment Writing for Tribunals*, January, 2007 (Ottawa).
- Practising Public Law, meeting of Ontario Court of Appeal Law Clerks, February, 2007.

- Canadian Institute, *Judgment Writing for Tribunals*, June, 2007 (Toronto).
- *Judgment Writing*, a presentation to the Immigration and Refugee Board (Toronto), April, 2007.
- *Judgment Writing*, a presentation to the Ontario Assessment Board, April, 2007.
- *Judgment Writing*, a presentation to the Workplace Safety and Insurance Appeals Tribunal, November, 2007.
- National Judicial Institute conference, *White Collar Crime*, Halifax, N.S., March, 2007.
- National Judicial Institute conference, *Charter Issues*, Whistler, B.C., June, 2007.
- National Judicial Institute conference, *Seminar for New Federally Appointed Judges*, Halifax, N.S., October, 2007.
- Society of Ontario Administrators and Regulators, *Judgment Writing and Judicial Review*, June, 2007.
- Some Issues in Government Liability, Osgoode Hall conference on Crown Liability, November, 2007.
- Instructor, Advanced Constitutional Law, Queen's University, September, 2007 to December, 2007.
- Instructor, Ontario College of Advocacy Training (Conference in Written Advocacy).
- Judge in final panel, Osler Corporate Securities Moot, Queen's University, November, 2007.

2006

- "Administrative Law", a presentation to newly appointed federal judges, Whistler, B.C., October 19, 2006.
- Created website on administrative law to give assistance to the judges.

- "Judicial Discretions in Judicial Review Cases", a presentation to judicial review justices from across Canada, Canadian Institute for the Administration of Justice, annual conference on administrative law, June 8, 2006 (only private sector lawyer invited).
- Created website on "Judicial Discretions in Judicial Review Cases" to give assistance to the judges.
- Conference of the Federal Court and Federal Court of Appeal on Administrative Law, current issues concerning section 15 of the *Charter*. Also delivered a lecture on remedies under ss. 24 and 52 of the *Constitution Act, 1982*
- Instructor, "Charter Issues", National Judicial Institute, July, 2006, St. Andrew's By The Sea, New Brunswick. Also delivered a lecture on remedies under ss. 24 and 52 of the *Constitution Act, 1982*.
- Worked with visiting judges from the Supreme People's Court of China, May, 2006, in a program of the National Judicial Institute concerning appeals in administrative law cases.
- "Practising Canadian Administrative Law in Canada", a presentation to visiting justices from Russia, (conference organized by the National Judicial Institute), March, 2006.
- "Developing a Public Law Practice", a presentation to Court of Appeal for Ontario law clerks.
- "Regulatory Cooperation: Some Constitutional Considerations", OBA Conference, "The Constitution in Regulatory Investigations and Proceedings", May 3, 2006.
- "The Bullet-Proof Tribunal: Making Decisions That Survive Judicial Scrutiny", COBA/SOAR conference (all Ontario's tribunals and regulatory bodies), November 2, 2006.
- "*Multani*: A Fundamentally Flawed Decision?", Osgoode Hall Professional Development conference on New Directions in Administrative Law and Practice, October 5-6, 2006.
- Instructor, Advanced Constitutional Law, Queen's University, January, 2006 to April, 2006.
- Instructor, Advanced Constitutional Law, Queen's University, September, 2006 to December, 2006.

- "Forward" in G. Huscroft and M. Taggart (eds.), *Inside and Outside Canadian Administrative Law: Essays in Honour of David Mullan*, October, 2006.
- Moderator, "Directors and Officers' Liability", 13th Annual Business Law Symposium, Queen's University, Kingston, Ontario.
- "Oral and Written Advocacy", October 20, 2006, Queen's University, Kingston, Ontario.
- Instructor, Written Advocacy Conference, November 17-18, 2006, Advocates' Society.
- "*Tranchemontagne*: The implications for administrative tribunals", July 12, 2006, lecture to the Workplace Safety and Insurance Appeals Tribunal.
- Judge in final panel, Osler Corporate Securities Moot, Queen's University, November, 2006.
- Invited to the private educational seminar of the New Brunswick Court of Appeal and New Brunswick Queen's Bench, but had to decline.

2005

- Advanced Constitutional Law (Seminar course, Queen's University Faculty of Law) (January-April, 2005).
- National Judicial Institute conference for appellate judges, April, 2005. Topic: judicial review in the 21st century.
- Co-chair and presenter, Osgoode Hall Crown Liability Conference, April, 2005. Presented paper on the similarities of various causes of action against government, recent developments concerning same, and law in the United States that might assist the future development of this law.
- O.B.A. conference on government liability, May, 2005.
- Legal writing seminars for articling students and summer students.
- National Judicial Institute Charter conference for judges, July, 2005. Seminar leader and presenter on "remedies".
- Osgoode Hall, conference on New Directions in Administrative Law and Practice, September, 2005. Presented paper on civil liability.

- Queen's University, constitutional law symposium in honour of John D. Whyte, September, 2005. Presented paper, "Who Makes Laws: Executive and Legislative Tensions in the Canadian Constitution".
- Canadian Institute for the Administrative of Justice and the National Judicial Institute, New Federally Appointed Judges Seminar, November, 2005. Presented paper, "Public Law Remedies: The Next Five Years", spoke on recent developments and led seminar discussions.
- Society of Ontario Adjudicators and Regulators, 17th Annual Conference of Ontario Boards and Agencies, November, 2005. Presented on "Recent Developments in Administrative Law".
- Court of Appeal for Ontario law clerks, Presenter, "Developing a public law practice".

2004

- Advanced Constitutional Law (Seminar course, Queen's University Faculty of Law) (January-April, 2004).
- Instructor, Ontario College of Advocacy Training (Conference in Written Advocacy).
- "The Constitution and Administrative Law: Unfulfilled Promises and Future Prospects", delivered at a Canadian Institute Conference.
- "Public Law Remedies: The Next Five Years", delivered to the Ontario Court of Appeal's annual private educational retreat.
- "The Canadian Bill of Rights: An Emerging Tool in Constitutional Cases", delivered at a Canadian Institute Conference.
- "Constitutional Remedies in Administrative Proceedings: Supervision, striking sections, policing discretions, standard of review and prospects for the future", delivered at an OBA Conference which I chaired.
- "Litigating Charter Rights at the Workplace Safety and Insurance Appeals Tribunal", delivered at an OBA conference.
- "Bifurcation of OSC Proceedings: A Need for Fundamental Fairness", delivered at the annual Queen's University Corporate Law Symposium.

- "Constitutional Litigation Before the WSIAT: Some Considerations", delivered at a special educational seminar for the Workplace Safety and Insurance Appeals Tribunal.
- "R. v. B. (S.A.) and the Right Against Self Incrimination: A Confusing Change of Direction" (2004), 14 C.R. (6th) 227.
- "Eighth Commandment: Choose the right word", delivered at the "Write to Persuade" Conference.
- "Procedurally Shy, Substantively Bold: Conflicting Approaches to Constitutional Review" (2004), 21 S.C.L.R. (2d) 385.

2003

- Advanced Constitutional Law (Seminar course, Queen's University Faculty of Law, with David Mullan) (September-December, 2003).
- "The Charter and the Law of Evidence ", Law Society Special Lectures.
- "Procedurally shy, substantively bold: conflicting approaches to constitutional review", Osgoode Hall Conference on the Charter of Rights.
- "Crossing the Rubicon: The Supreme Court, the Charter and Regulatory Investigations" (Criminal Reports).
- "Preparing a Constitutional Case for Court: Some Common Myths" (Canadian Institute Conference).
- Instructor, Written Advocacy Conference, Advocates' Society.

2002

- "Interlocutory Stays of Administrative Tribunals", Ontario Bar Association Conference.
- "The Constitutionality of Regulatory Investigations: The Defence Perspective", Ontario Bar Association Conference.
- "Recent Developments in Constitutional Remedies", Ontario Bar Association Annual Charter Conference.

- “Reporting to the Police: Criminal and Civil Proceedings”, Federated Press Conference.
- "Theft and Misuse of Proprietary Information", Federated Press conference on workplace investigations.
- "Recent Developments in Standard of Review Jurisprudence", Ontario Bar Association Conference.
- “Litigating Charter Cases Like Fence Disputes”, Association for Canadian Studies, Conference on the 20th Anniversary of the Canadian Charter of Rights and Freedoms.
- “Practising Constitutional Law”, speech to Ont. C.A. law clerks.
- Advanced Constitutional Law (Seminar course, Queen’s University Faculty of Law, with David Mullan) (January-April, 2002).
- Advanced Constitutional Law (Seminar course, Queen’s University Faculty of Law, with David Mullan) (September-December, 2002).
- “Written Advocacy” (Osgoode Hall LL.M. lecture).
- “The Constitutionality of Regulatory Investigations: The Defence Perspective”, Ontario Bar Association Conference (August, 2002).
- Instructor, Ontario College of Advocacy Training (Conference in Written Advocacy).

2001

- Advanced Constitutional Law (Seminar course, Queen’s University Faculty of Law, with David Mullan) (January-April, 2001).
- “Written and Oral Advocacy” (Queen’s University Faculty of Law).
- Instructor, written advocacy (Department of Justice offices in Toronto, Saskatoon, Edmonton and Vancouver).
- Instructor, Ontario College of Advocacy Training (Conference in Written Advocacy).
- Updates to *The Charter of Rights in Litigation: Direction From the Supreme Court of Canada*, a 2,400 page looseleaf digest and analysis of Charter of Rights cases released by the Supreme Court of Canada (updated thrice yearly).

- “Managing Internal Investigations” (Conference Paper).
- “Tips on Oral Advocacy” (Conference Paper).
- “Regulatory Officers Using Powers to Investigate Offences: Police Officers or Not?” (Insight Conference).

2000

- Updates to *The Charter of Rights in Litigation: Direction From the Supreme Court of Canada*, a 2,400 page looseleaf digest and analysis of Charter of Rights cases released by the Supreme Court of Canada (updated thrice yearly).
- “Federal Court Practices and Procedures” (Conference Paper).
- “Students and the Criminal Process” (Conference Paper).
- “The Role of the Administrative Tribunal in Judicial Review Proceedings” (Conference Paper).
- “In-House Counsel and Investigations” (C.B.A.O. Conference Paper).
- “The Case for Charter Protections in Regulatory Proceedings” (Queen's University Corporate Law Symposium).
- Advanced Constitutional Law (Seminar course, Queen’s University Faculty of Law, with David Mullan) (January-April, 2000).
- Recent Developments in Constitutional Law (Osgoode Hall LL.M. program).
- Recent Developments in Tort Law (Osgoode Hall LL.M. program).
- Constitutional Litigation (Osgoode Hall LL.M. program).
- “Simultaneous Criminal and Civil Proceedings” (conference paper).
- Instructor, Ontario College of Advocacy Training (Conference in Written Advocacy).

1999

- Updates to *The Charter of Rights in Litigation: Direction From the Supreme Court of Canada*, a 2,400 page looseleaf digest and analysis of Charter of Rights cases released by the Supreme Court of Canada (updated thrice yearly).
- “Parallel Criminal Proceedings” (Federated Press Conference).
- “Managing Internal Investigations” (Federated Press Conference).
- “Police Services: Investigations of Police and Civil Liability” (Conference Paper).
- “The Limits on Regulatory Inspections, Investigations and Inquiries” (Conference Paper).
- “Finding Fault With Fault-Finding Inquiries” (Conference on Public Inquiries, Queen’s University) (February 11-13, 1999).
- Advanced Constitutional Law (Seminar course, Queen’s University Faculty of Law, with David Mullan) (January-April, 1999).
- Instructor, Ontario College of Advocacy Training (Conference in Appellate Advocacy).
- “The Disappearing Law of Contracts” (Guest lecture) (Queen’s University Faculty of Law).
- “Written and Oral Advocacy” (Queen’s University Faculty of Law).

1998

- Updates to *The Charter of Rights in Litigation: Direction From the Supreme Court of Canada*, a 2,400 page looseleaf digest and analysis of Charter of Rights cases released by the Supreme Court of Canada (updated thrice yearly).
- Instructor, Ontario College of Advocacy Training (Conference in Written Advocacy).
- “Written and Oral Advocacy” (Queen’s University Faculty of Law).
- “The Disappearing Law of Contracts” (Guest lecture) (Queen’s University Faculty of Law).
- Advanced Constitutional Law (Seminar course, Queen’s University Faculty of Law, with David Mullan).

- “Written Advocacy” (Guest lecture) (Queen’s University Faculty of Law).
- “Problems in Corporate Criminal Law” (Queen’s University Faculty of Law).

1997

- Updates to *The Charter of Rights in Litigation: Direction From the Supreme Court of Canada*, a 2,400 page looseleaf digest and analysis of Charter of Rights cases released by the Supreme Court of Canada (updated thrice yearly).
- “What to Do When the Inspector Calls: Managing Quasi-Criminal Investigations” (OH&H Newsletter).
- “What to Do When the Inspector Calls: Managing Quasi-Criminal Investigations” (Insight Corporate Counsel Conference).
- Instructor, Ontario College of Advocacy Training (Conference in Written Advocacy).
- “The Limitations of Aquatic Toxicology: Can One Dead Daphnia Put a Person in Jail?” (24th Annual Canadian Aquatic Toxicology Conference).
- “What Are They Doing To Our Charter: Recent Developments in Constitutional Law?” (Guest lecture) (Osgoode Hall Law School, LL.M. Course).
- “Recent Developments in Tort” (Guest lecture) (Osgoode Hall Law School, LL.M. Course).
- “Recent Developments in Contract” (Guest lecture) (Osgoode Hall Law School, LL.M. Course).
- “Problems in Corporate Criminal Law” (Guest lecture) (Queen’s University Faculty of Law).
- “The Disappearing Law of Contracts” (Guest lecture) (Queen’s University Faculty of Law).
- “Corporations and Constitutional Rights” (Guest lecture) (Queen’s University Faculty of Law).

1996

- Updates to *The Charter of Rights in Litigation: Direction From the Supreme Court of Canada*, a 2,400 page looseleaf digest and analysis of Charter of Rights cases released by the Supreme Court of Canada (updated thrice yearly).
- Advanced Constitutional Law (Seminar course, Queen's University Faculty of Law, with John D. Whyte).

1995

- Updates to *The Charter of Rights in Litigation: Direction From the Supreme Court of Canada*, a 2,400 page looseleaf digest and analysis of Charter of Rights cases released by the Supreme Court of Canada (updated thrice yearly).
- "Comment on Draft MOEE Policy on Environmental Audits" (Conference Paper).
- "What to Do When a Search is Expected" (Conference Paper, Later Updated).
- "What to Do When the Searchers Arrive" (Conference Paper, Later Updated).
- "What to Do When the Authorities Visit and Request an Interview" (Conference Paper, Later Updated).
- "The Disappearing Law of Contracts" (Guest lecture) (Queen's University Faculty of Law).
- Advanced Constitutional Law (Seminar course, Queen's University Faculty of Law, with John D. Whyte - twice in 1995).
- "Decision-Making at the Supreme Court of Canada (Guest lecture)" (Queen's University Faculty of Law).

1994

- Updates to *The Charter of Rights in Litigation: Direction From the Supreme Court of Canada*, a 2,400 page looseleaf digest and analysis of Charter of Rights cases released by the Supreme Court of Canada (updated thrice yearly).
- "The End of Securities Regulation by Policy Statements?" (*Legal Alert*).
- "Access to Courts to Challenge Legislation: Recent Developments" (*Charter and Human Rights Litigation*).

- “Constitutional Remedies After *Schachter*” (Faculty seminar) (Queen’s University Faculty of Law).

1993

- Updates to *The Charter of Rights in Litigation: Direction From the Supreme Court of Canada*, a 2,400 page looseleaf digest and analysis of Charter of Rights cases released by the Supreme Court of Canada (updated thrice yearly).
- “Appeals from Interlocutory Orders” (C.B.A.O. Conference).
- “The Employment Interview: Raised Expectations Can Lead to Liability” (OH&H Newsletter).
- “Solicitors’ Liability for Legal Opinions” (C.B.O.A. Conference).
- “UNCITRAL in Canada: Developments Under the New Legislation” (University of Edinburgh Conference).
- “The Disappearing Law of Contracts” (with Carol Hansell) (Conference Paper, London U.K.).
- “OSC Policy Statement Struck Down” (*Roland on Corporate Litigation*).
- “The Superintendent of Pensions: Watchdog, Investigator and Judge” (with J. Brett Ledger) (Conference Paper).

1992

- Updates to *The Charter of Rights in Litigation: Direction From the Supreme Court of Canada*, a 2,400 page looseleaf digest and analysis of Charter of Rights cases released by the Supreme Court of Canada (updated thrice yearly).
- “Economic Loss Recoverable in Negligence Actions” (*Roland on Corporate Litigation*).
- “The Competition Bureau Enters the Boardroom: Defending Competition Proceedings” (with J. Edgar Sexton, Q.C.) (Conference Paper).
- “Corporate Directors’ Duty of Care: An Environmental Case Provides Guidance” (*Roland on Corporate Litigation*).
- “Protecting the Confidentiality of Documents Needed by Police: The Challenge Posed by Recent Developments” (with D. Aleck Dadson) (Conference Paper).

- “Quebec’s Distinctiveness, the Charter and the Canada Clause: Background and Assessment of the Reforms” (Conference Paper).
- “Landmark Conspiracy Case Alters Canadian Competition Law” (*Canadian American Journal of Competition Law*).
- “Maintaining Confidentiality Over Business Records: Recent Developments on the Limits of Privilege” (Conference Paper).

1991

- Updates to *The Charter of Rights in Litigation: Direction From the Supreme Court of Canada*, a 2,400 page looseleaf digest and analysis of Charter of Rights cases released by the Supreme Court of Canada (updated thrice yearly).
- “Introduction to the Charter of Rights” (Conference Paper).
- “Case Management: A Timely Solution to Court Delays?” (OH&H Newsletter).
- “Property Rights: An Evaluation of the Arguments Against Entrenchment” (Conference Paper).

1990

- *The Charter of Rights in Litigation: Direction From the Supreme Court of Canada*, a 2,400 page looseleaf digest and analysis of Charter of Rights cases released by the Supreme Court of Canada (updated thrice yearly).
- “Court Reform” (Firm Newsletter).

1986

- “Recovery of Benefits Obtained as a Result of a Breach of Contract” (Oxford University, thesis).

1984

- “Constitutional Guarantees of Independence of the Judiciary” (Queen’s University).

Appointments and Awards:

- Fellow of the American College of Trial Lawyers (effective upon induction, March 2008)
- Member, Supreme Court Advocacy Institute (2007-present)
- H.R.S. Stuart Ryan Law Alumni Award, Queen's University (2005)
- Member, Board of Directors, Canada AIDS Russia Project, a multi-year HIV/AIDS training and research project in Russia
- Member of Executive of CBAO, Constitutional and Civil Liberties Section, 2001-2005
- Teaching awards, Queen's University, Faculty of Law, 1997, 2002 (fall), 2002 (winter), 2004 and 2006
- Nominated for University-wide teaching award, Queen's University, 2008
- Sir Rupert Cross Prize in Evidence, Oxford University, 1986
- First class standing, Oxford University, B.C.L. (1986)
- Queen's University, LL.B. (1984)
- Doctoral Fellowship, Social Sciences and Humanities Research Council of Canada, 1984-1986
- 7 scholarships and prizes while enrolled in the Faculty of Law, Queen's University
- 9 scholarships and prizes while enrolled in the Faculty of Arts and Science, Queen's University

January, 2008