

Red Hill Valley Parkway Inquiry

Joint Application

GROSSO HOOPER LAW

Barristers
128 Hughson Street North
Hamilton ON L8R 1G6

Robert J. Hooper – LSO #34209W
E-mail – rob@grossohooperlaw.ca

Mary Grosso - LSO #38251J
E-mail – mgrosso@grossohooperlaw.ca

Telephone: (905) 522-8002
Fax: (905) 777-1220

SCARFONE HAWKINS

Barristers
1 James St S 14th Floor
Hamilton, ON L8P 4R5

David Thompson
E-mail – thompson@shlaw.ca

Matthew Moloci
E-mail – moloci@shlaw.ca

Telephone: (905) 523-1333
Fax: (905)523-5878

JOINT APPLICATION OF GROSSO HOOPER LAW (“GH”) AND SCARFONE HAWKINS (“SH”) FOR PARTICIPATION IN AND FUNDING FOR THE RED HILL VALLEY PARKWAY (“RHVP”) INQUIRY

THE APPLICANTS

GH/SH represent approximately 200 individuals who have been involved in motor vehicle crashes on the RHVP.

GH/SH continue to hear from potential new clients who were involved in motor vehicle crashes on the RHVP on an ongoing basis. Depending on the timing of the RHVP inquiry, GH/SH may have information about approximately 250 – 300 motor vehicle crashes. If required by Justice Wilton-Siegel, the names of those individuals can be released in a spreadsheet.

The participants from GH will be Robert J. Hooper (LSO #34309W), Mary Grosso (LSO #38251J), Kim Jossul (LSO #52870E).

The participants from SH will be David Thompson (LSO #28271N), Matthew Moloci (LSO #40579P), and Michael Grant (LSO #77319Q).

Contact information for the individuals is as follows:

Robert J. Hooper, rob@grossohooperlaw.ca, 905-522-8002 ext 101
Mary Grosso, mgrosso@grossohooperlaw.ca, 905-522-8002 ext 107
Kim Jossul, kim@grossohooperlaw.ca, 905-522-8002 ext 114
David Thompson, thompson@shlaw.ca, 905-526-4382
Matt Moloci, moloci@shlaw.ca, 905-526-4377
Michael Grant, mgrant@shlaw.ca, 905-523-5878

GH mailing address is:

128 Hughson Street North
Hamilton ON L8R 1G6

SH mailing address is:

1 James Street South
14th Floor
Hamilton ON L8P 4R5

STANDING TO PARTICIPATE

The individuals that GH/SH represent have a substantial and direct interest in the subject matter of the RHVP inquiry. All were involved in a motor vehicle crash on the RHVP. Each has a detailed account of the motor vehicle crash and has been harmed in some way in the crash either physically or financially. They have a direct and substantial interest in the inquiry.

Participation as witnesses by many of the individuals will be of assistance to the inquiry based on the knowledge of the individuals, their use of the RHVP and their specific involvement in a motor vehicle crash on the RHVP.

Each person who was in a motor vehicle crash has an individual account that will contribute to the fact-finding function of the inquiry and its fairness. The Commissioner should hear from various individuals about their experiences in using the RHVP.

GH/SH wish to participate in the inquiry to ensure an open and fair process and to protect the rights of these individuals and the public generally. GH/SH seek participation in order to provide additional balance and information/documentation that may not be readily available from the City of Hamilton, or in general from other sources.

The resolution of City of Hamilton Council provides:

“Based on the City’s by-laws, policies and procedures, as they were in 2014, should Council have been made aware of the Report, or the information and recommendations contained therein, once the Report was submitted to the Department of Engineering Services in 2014?”

“(v) Was there any negligence, malfeasance or misconduct in failing to provide the Report, or the information and recommendations contained therein, to Council or to the public?”

“(viii) Were appropriate steps taken to disclose the Report, or the information and recommendations contained therein, once it was discovered in 2018?”

“(ix) was there any negligence, malfeasance or misconduct in failing to disclose the Report, or the information and recommendations contained therein, once the Report was discovered in 2018?”

“(x) Were users of the RHVP put at risk as a result of the failure to disclose the Report’s findings?”

“(xi) Did the Report contain findings or information that would have triggered Council to make safety changes to the roads or order further studies?”

“(xii) Did the failure to disclose the Report or the information and recommendations contained therein, contribute to accidents, injuries or fatalities on the RHVP since January, 2014?”

“(xiii) Did anyone in the Public Works Office or Roads Department request, direct or conduct any other friction test, asphalt assessment, or general road safety reviews or assessments on the RHVP?”

“(xvi) Did the MTO Report provide additional support or rebuttal to the conclusions contained in the Report?”

(xvii) Why was the MTO Report not provided to Council or made publicly available?

(xviii) Who was briefed within the MTO’s office about the MTO Report?

(xix) Did the MTO Report contain findings or information that would have triggered Council to make safety changes to the roads or order further studies?”

“(xx) Did the failure to disclose the MTO Report, or in the information and recommendations contained therein, contribute to accidents, injuries or fatalities on the RHVP since January, 2014?”

“(xii) What is the standard in Ontario, if any, with respect to the acceptable levels of friction on a roadway?”

(xxiii) Is information with respect to the friction levels of the roadways in Ontario publicly available?”

“(xxiv) To what extent to other factors, including, but not limited to, driver behavior, lighting and weather conditions, contribute to motor vehicle accidents when compared to the impact of friction levels on motor vehicle accidents on the RHVP?”

Many of the individuals represented by GH/SH have been involved in motor vehicle crashes on the RHVP since 2014. Several have lost loved ones. They believe that the failure to disclose the report and fix the roadway contributed directly to their accidents, injuries, some fatalities and their financial losses. It is of particular importance to these individuals to seek insight into whether or not Council should have been made aware of the report and specifically the recommendations contained in it when it was given to the Department of Engineering Services.

Having an answer to this question will assist in determining if the City of Hamilton could have taken proactive steps to prevent motor vehicle crashes on the RHVP since 2014, and the corresponding losses that have occurred.

Some individuals in the over 200 claimants represented by GH/SH were involved in motor vehicle crashes on the RHVP, after the report was discovered in 2018, but before any corrective/remedial action was taken.

Again, such affected individuals are fairly entitled to probe whether there was negligence, malfeasance or misconduct in the delayed disclosure of the report that could have prevented their losses.

This goes to the heart of why individuals have contacted GH/SH as it is their position based on their experiences that they were put at risk and suffered loss as a result of what transpired on the RHVP.

It will be very important to each individual to determine whether the MTO Report would have triggered the Council in a reasonable way to make safety changes to the roads which may have prevented the loss by individuals represented by GH/SH.

Three of the members of the group were injured or had family members killed on the RHVP since January, 2014. If failure of the MTO Report to be disclosed contributed to the accidents, injuries or fatalities since 2014, it is important for the individuals represented by GH/SH participate and understand the impact or lack of impact that the failure to disclose the MTO Report had.

Given the experiences of many of the individuals represented by GH/SH and their individual accounts that the lack of friction on the roadway caused a motor vehicle crash, it is important for them to understand whether or not there are standards dealing with friction and whether they are available to the roadway owner, the City of Hamilton, and to a lesser extent the public.

The individuals represented by GH/SH would like to be heard to some extent individually and certainly collectively about their experience and lack of driver error on the RHVP.

TYPES OF PARTICIPATION SOUGHT

- (a) Receive access to a database of relevant documents;
- (b) to comment on background materials or written evidence prepared by the Commission Counsel;

- (c) to propose individuals to be interviewed or to appear as witnesses at the RHVPI public hearing;
- (d) to examine witnesses at the RHVPI's public hearing;
- (e) to make oral or written submissions to the Commissioner.

Other than individual accounts evidence that there may be lawyers who represent a number of other individuals involved in motor vehicle crashes on the RHVP, we are not aware of any knowledge of a party with a common interest.

We are requesting that the Commissioner recommend that we receive funding for legal counsel from the City of Hamilton in order to be able to participate in the RHVP inquiry.

Many individuals who have been impacted do not have the ability to hire GH/SH to participate in the RHVP inquiry.

GH/SH are prepared to abide by the Ontario government guidelines for the hourly rates for participant counsel. GH/SH will not be asking for additional remuneration from the group of parties who have shared their RHVP experience.

GH/SH request legal expenses including reasonable preparation and representation at the inquiry. GH/SH request that attendance at meetings requested by the Commissioner, production and review of documents, etc., be specifically included in reasonable preparation.

GH/SH undertake to attempt to use junior counsel whenever possible in an attempt to minimize expense.

Attached are copies of the curriculum vitae of the GH/SH counsel involved. The two lead counsel will be Robert J. Hooper and David Thompson.

There is not a requirement that the application for standing/funding be kept confidential, unless a request is made by the Commissioner for disclosure of the names of the individuals represented by GH/SH.

GH/SH do not require an opportunity to make oral submissions to the Commissioner, but would be pleased to do so at the Commissioner's request.

Mary K. Grosso
128 Hughson Street North, Hamilton, ON L8R 1G6
mgrosso@grossohooperlaw.ca
w. 905-522-8002 x. 107 c. 905-220-6016

EDUCATION

February 1996 LAW SOCIETY OF ONTARIO
Called to the Bar of the Province of Ontario

April 1994 UNIVERSITY OF WESTERN ONTARIO
Bachelor of Laws

October 1991 WILFRID LAURIER UNIVERSITY
Bachelor of Arts

EMPLOYMENT EXPERIENCE

September 2018 –
Present Grosso Hooper Law, **Partner**

June 2015 –
September 2018 Hooper Law, **Associate**

January 2009 –
June 2015 Pelton Law, **Associate**

September 2006 –
December 2008 TVA/The Legal Outsourcing Network, **Lawyer**

June 1994–
May 2000 LOOPSTRA, NIXON & MCLEISH, **Student-at-law, then Associate, Litigation Group**

PROFESSIONAL MEMBERSHIPS

Hamilton Law Association, Trustee and Vice-Chair CPD Committee
Hamilton Lawyers Club
Hamilton Medical Legal Society
Ontario Trial Lawyers Association

ROBERT JOHN HOOPER

BUSINESS ADDRESS: 128 Hughson Street North
Hamilton ON L8R 1G6

PLACE OF BIRTH: Saint John, New Brunswick

DATE OF BIRTH: November 7, 1966

PROFESSIONAL QUALIFICATIONS

Baccalaureate of Laws degree, University of Ottawa
Admitted to the Bar in the Province of Ontario
Admitted to the Bar in the Province of New Brunswick
Certified Specialist in Civil Litigation with The Law Society of Ontario

EDUCATION:

June, 2007: Completed membership requirements Law Society
of New Brunswick

February, 1993: Completed Bar Admission Course for the Province
of Ontario

1989-1991: University of Ottawa
Completed second and third year of common law
program
Received Baccalaureate of Laws Degree, May, 1991,
graduated cum laude

1988-1989: University of New Brunswick Law School
Completed first year common law program

1984-1988: St. Thomas University, Fredericton, New Brunswick
(Full scholarship for four years)
Received Bachelor of Arts Degree with double major
in history and political science

1980-1984:

Fundy High School, St. George, New Brunswick
Completed all requirements for New Brunswick
Secondary School Diploma

LEGAL WORK HISTORY:

March, 2001 to present:

Grosso Hooper Law Offices

Owner and operator of a personal injury law firm acting for people involved in: automobile accidents; slip and falls; medical malpractice; sports accidents; and sexual and physical assaults. I have conducted hundreds of mediations, arbitrations and trials.

May, 1998 to February, 2001:

William Morris Law Offices

Worked in a Plaintiff personal injury law firm. Duties included day-to-day work on personal injury files including medical malpractice, automobile accidents, slip and fall and other litigation involving people who have been harmed including countless mediations, arbitrations and trials.

February, 1993 – May, 1998:

Sullivan, Festeryga, Lawlor & Arrell

Worked at a predominate insurance litigation firm doing insurance litigation, criminal law and trademark work. Duties included preparation and conducting trials in insurance litigation, criminal matters and representing clients with the Canadian trademark office.

May, 1991 – August, 1992:

Blake, Cassels & Graydon

Completed my Articles including rotations in commercial real estate, securities, mergers and acquisition, civil litigation, constitutional law, bankruptcy and insolvency; spent time working in the sports and entertainment group

Summer, 1990:**University of Ottawa, Legal Aid Clinic**

Worked as a case worker on landlord and tenant, criminal and civil actions for low income families; developed a woman's division for the clinic to assist spouses battered by their partners

Summer, 1989:**Crown Attorney's Office, St. John, New Brunswick**

Completed research memoranda, conducted Adjournment Court and Bail Court; sat second chair at several criminal trials and worked predominantly in a sexual assault prosecution unit.

MEMBERSHIPS AND AFFILIATIONS

Atlantic Trial Lawyers Association
 Ontario Trial Lawyers Association
 Canadian Bar Association
 Ontario Bar Association
 American Association of Justice
 Hamilton Lawyers Club
 Hamilton Medical/Legal Society
 Hamilton Law Association
 National Conference of Bar Presidents

CURRENT COMMUNITY INVOLVEMENT

Founder/Trustee – Big Brothers Big Sisters Foundation of Canada
 Past President – Hamilton Law Association
 First Past President – Hamilton Law Association
 Founder/Chair – Walk With Me Canada Victim Services
 Vice Chair – Big Brothers Big Sisters Foundation of Hamilton & Burlington
 Finance Chair – Eucharist Church
 National Conference of Bar Presidents – 21st Century Lawyer Committee,
 Diversity and Inclusion

PAST COMMUNITY INVOLVEMENT

Executive – Big Brothers Big Sisters of Canada
 Board Member – Big Brothers Big Sisters of Hamilton & Burlington
 Board Member – Wilson Junior Golf Tour
 Board Member – Hamilton-Wentworth Creative Arts Inc.
 Executive – Big Brothers Big Sisters of Hamilton & Burlington

Board Member – North Hamilton Health Centre

SPORTS EXPERIENCE

Two Sport (Basketball and Soccer) Varsity Athlete for four years
 Head Coach, Redeemer University Women's Basketball Team
 Coach Dundas Dynamo Elite Girls Basketball Team
 Basketball Official at all levels including University for over 20 years
 Basketball Ontario Seeding and Ranking Committee

DONATIONS TO CHARITIES AND NON-PROFITS

Children and Youth

Big Brothers Big Sisters of Hamilton & Burlington
 Big Brothers Big Sisters Miramichi
 Big Sisters of London
 Big Brothers Big Sisters of Canada
 Plan Canada
 Navigators of Canada
 Help A Child Smile
 Miles for Smiles
 Living Rock Ministries

Cancer Charities

Weekend To End Breast Cancer
 Canadian Breast Cancer Foundation
 Canadian Cancer Society

Spinal and Brain Injuries

Canadian Paraplegic Association
 Spinal Cord Ontario
 Brain Injury Services of Hamilton
 Hamilton Brain Injury Association
 Camp Dawn
 Canadian Women's Wheelchair Basketball National Team
 Pace Spinal Cord Rehabilitation

Faith Groups

The Navigators
 The Meeting House

Heart To Heart Ministries
Eucharist Church

Sports Groups

Parkside High School Basketball Program
Dundas Dynamo Rep Basketball Program
Redeemer University Men's/Women's Basketball Program

Other Charities

United Way of Burlington & Greater Hamilton
World Vision
Joy and Hope for Haiti Project
Redeemer University
McMaster University
Walk With Me Canada
Courage To Cope
Joy Smith Foundation

DAVID THOMPSON

WORK EXPERIENCE

February, 2001
to present

Partner/Lawyer/Mediator/ETDL
SCARFONE HAWKINS ^{LLP}
One James Street South, 14th Floor
Hamilton, Ontario
L8N 3P9

Civil litigation practice with emphasis on plaintiff class action work, and commercial litigation. Broad exposure to a wide range of litigation matters including class proceedings, breach of contract, oppression remedy, shareholder and corporate disputes, injunctions and mandatory orders, fiduciary duties, negligence, misrepresentation and detrimental reliance, Will challenges and Estate litigation, aborted business and real estate transactions, wrongful termination/employment and labour disputes, professional negligence claims, boundary and title issues, insurance claims and debt collection.

Responsibilities

Client contact, determined problem areas, analyzed problems, recommended and implemented solutions. Negotiated settlements to conflict, participated in numerous interlocutory proceedings in Ontario Superior Court of Justice, numerous trials in Ontario Superior Court of Justice, etc., and appeal proceedings in Divisional Court, the Ontario Court of Appeal and the Supreme Court of Canada.

Also appeared before numerous and various administrative tribunals/committees including Land Division Committees, Academic Appeals Committees, Workers' Safety and Insurance Board of Ontario, Liquor Licence Board of Ontario and Commercial Registration Appeals Tribunal.

Court appointed as Estate Trustee During Litigation (ETDL) in a number of contested litigation scenarios primarily involving will challenges, capacity, undue influence, etc.

Responsibilities included the full range of estate trustee obligations including identifying, gathering and preserving estate assets, identifying creditors and satisfying estate debts, filing tax returns, assisting in negotiations between beneficiaries, etc.

Acted as mediator in a number of estate litigation and commercial litigation matters assisting parties and their counsel with resolution/settlement and/or narrowing of issues.

February, 1988 to
January, 2001

Lawyer
BROWN, SCARFONE, HAWKINS
1050-120 King Street West
Hamilton, Ontario
L8N 3P9

Associate February 1988 - January 1993
Partner February 1993 - January, 2001

June, 1987 to
September, 1987

Student-at-Law
STEPHAN M. FRANKEL
4200-100 Main Street East
Hamilton, Ontario
L8N 3W6

Exposure to various areas of law including criminal law, civil litigation and landlord and tenant law.

June, 1986 to
June, 1987

Articled Student-at-Law
EVANS, PHILIP
1 King Street West
16th Floor
Hamilton, Ontario
L8P 1A4

Summer, 1985

Student-at-Law/Clerk
Unified Family Court
55 Main Street West
Hamilton, Ontario
L8P 1H4

Clerk for Justices Beckett, Goodearle, Mendes da Costa, Steinberg and Van Duzer.

Summer, 1984

Student-at-Law/Clerk
Unified Family Court
55 Main Street West
Hamilton, Ontario
L8P 1H4

Clerk for Justices Gravely, Steinberg and Van Duzer.

EDUCATION

September, 1987 to
February, 1988

Law Society of Upper Canada
Bar Admission Course
Called to the Bar as a Barrister and Solicitor for the Province
of Ontario:
April, 1988

1983 to 1986

Osgoode Hall Law School
Juris Doctor Degree obtained: June, 1986

1980 to 1983

McMaster University
Bachelor of Arts Degree Obtained, Summa Cum Laude
May, 1983
Major: Political Science

1975 to 1980

Cathedral Boys' High School
S.S.H.G.D. Obtained: January, 1980

ACADEMIC AWARDS

1982 to 1983

Edwin Marwin Dalley Memorial Scholarship
McMaster University Dean's Honour List

1981 to 1982

Edwin Marwin Dalley Memorial Scholarship
McMaster University Dean's Honour List

1980 to 1981

McMaster University Chancellors' Scholarship
McMaster University Dean's Honour List

1979 to 1980

Ontario Scholarship
The Permanent Annual Student Writing Award
Reader's Digest Award
High School Class Valedictorian

PERSONAL/PROFESSIONAL ACHIEVEMENTS

- 2019
- Recognized by peers in the “*Best Lawyers in Canada*”, 2019-2020 Directory in the area of class action litigation.
- Host - Hamilton Law Association, 14th Annual “Current Issues in Commercial Litigation” Seminar, March 6, 2019;
- Speaker – Hamilton Law Association, New Lawyers’ Seminar, “Decision Making, The New Lawyer/Partner Perspective”, September 5, 2019.
- 2018
- Recognized by peers in the “*Best Lawyers in Canada*”, 2018-2019 Directory in the area of class action litigation.
- Speaker - Hamilton Law Association, 13th Annual “Current Issues in Commercial Litigation” Seminar, “What Politicians Can Teach Us About Advocacy”, February 21, 2018;
- Speaker – Hamilton Law Association, 18th Annual Advocacy Conference, Current Issues in Equality, Diversity and Inclusion: Panel Discussion, December 6, 2018.
- 2017
- Recognized by peers in the “*Best Lawyers in Canada*”, 2017-2018 Directory in the area of class action litigation.
- Speaker - Hamilton Law Association, Fourth Annual Advocacy Skills Workshop, mock cross-examination of expert witness, January 26, 2017.
- Co-Chair – Hamilton Law Association, 12th Annual “Current Issues in Commercial Litigation” Seminar, February 22, 2017.
- Article Published August, 2017 HLA Journal, “Memory Book Update”.
- Speaker – Southwestern Lawyers Annual Training Seminar for Legal Aid – Legal Aid Ontario “Advocacy Lessons Learned from Hollywood”, London, Ontario - September 28, 2017.
- Speaker - Ontario Counsel of Children’s Aid Societies - “Advocacy Lessons Learned from Hollywood”, Burlington, Ontario- October 20, 2017.

Article Published October, 2017 HLA Journal, "Strive Mightily, but Eat and Drink as Friends".

Article Published December, 2017 HLA Journal, "Memory Book Update".

2016

Recognized by peers in the "*Best Lawyers in Canada*", 2016-2017 Directory in the area of class action litigation.

Recognized by peers in the "*Canadian Legal Lexpert*", 2016 Directory in the area of class action litigation.

Co-Chair and Speaker – Hamilton Law Association, 11th Annual "Current Issues in Commercial Litigation" Seminar, February 26, 2016.

Speaker – The Advocates' Society, 2016 Hamilton Courthouse Series: Discovery Skills Win at Trial, March 2, 2016.

Speaker - "Advocacy Lessons Learned from Hollywood", Central-West Region, Superior Court of Justice - Justices' Conference, Langdon Hall, Cambridge, September 8, 2016.

Speaker - "Class Actions: A Basic Primer: Getting In On The Action", Ontario Trial Lawyers' Association Fall Conference - October 28, 2016.

Speaker - Ontario Legal Aid Seminar "Advocacy Lessons Learned from Hollywood", - October 28, 2016.

Speaker – Hamilton Law Association, 13th Annual Employment Law Seminar – November 17, 2016.

2015

Recognized by peers in the "*Best Lawyers in Canada*", 2015 Directory in the area of class action litigation.

Recognized by peers in the "*Canadian Legal Lexpert*", 2015 Directory in the area of class action litigation.

Appearance in and submissions to the Supreme Court of Canada on behalf of interveners. Paramountcy issue relating to *407 ETR Act* and *Bankruptcy and Insolvency Act*, related to class proceeding *Dow et al. v. 407 ETR Concession Company Limited et al.*

Co-Chair and Speaker – Hamilton Law Association, 10th Annual “Current Issues in Commercial Litigation” Seminar, February 25, 2015.

Speaker – Hamilton Law Association, Advocacy Skills Workshop, April 2, 2015.

Speaker – Hamilton Law Association, Family Law Lunch Bucket Series, “What We Can Learn From Hollywood About Advocacy”, June 3, 2015.

Speaker/Article – Hamilton Law Association Corporate Commercial Seminar, “Resolving Shareholder Disputes When There is no Shareholder Agreement”, October 15, 2015.

Speaker – Hamilton Law Association, New Lawyer’s Subcommittee, “What We Can Learn From Hollywood About Advocacy”, December 3, 2015.

Speaker – EZ CPD Webinar, ““What We Can Learn From Hollywood About Advocacy”, December 21, 2015.

2014

Recognized by peers in the “*Best Lawyers in Canada*”, 2014 Directory in the area of class action litigation.

Recognized by peers in the “*Canadian Legal Lexpert*”, 2014 Directory in the area of class action litigation.

Ontario Bar Association Central South, Council Member, 2014-2015.

Ontario Bar Association Membership Committee, 2014-2015.

Canadian Bar Association, National Council Member, 2014-2015.

2014 (Around the Chair and Speaker – Hamilton Law Association).

Article – Hamilton Law Association Journal, “Supreme Court of Canada Calls for ‘Culture Shift’ in Civil Justice System”, 2014.

Chair and Speaker– Hamilton Law Association, Written and Oral Advocacy Workshop, April 3, 2014.

Article Hamilton Law Association Advocacy Skills Workshop, "20 Tips for Writing a Truly Bad Factum", April 3, 2014.

2013

Recognized by peers in the "*Best Lawyers in Canada*", 2013/2014 Directory in the area of class action litigation.

Recognized by peers in the "*Canadian Legal Lexpert*", 2013 Directory in the area of class action litigation.

Speaker – Hamilton Law Association, 8th Annual "Current Issues in Commercial Litigation" Seminar, February 27, 2013.

Speaker – Hamilton Law Association "Practical Tips for the Courtroom" Seminar, September 12, 2013.

Speaker- "14th Annual National Forum on Class Action Litigation" Seminar, September 24 & 25, 2013.

Speaker – 2nd Annual Blumberg's Canadian Charity Law Conference, "Abusive Schemes, Class Action Lawsuits and Legal Opinions", October 15, 2013.

2012

Speaker – 1st Annual Blumberg's Canadian Charity Law Conference, "Being Good At Doing Good", February 13, 2012.

Speaker – Hamilton Law Association, 7th Annual "Current Issues in Commercial Litigation" Seminar, "How to deal with bully lawyers", March 7, 2012.

Speaker- 13th Annual National Forum on Class Action Litigation, "Class Actions Litigation Bootcamp", April 18 & 19, 2012.

Speaker – The Canadian Institute, "Effectively Managing Class Action Litigation" Seminar, April 20, 2012.

2011

Speaker, Ontario Bar Association Institute 2011 - "Charity and Not-for-Profit Law" Seminar.

Speaker – Hamilton Law Association, 6th Annual "Current Issues in Commercial Litigation" Seminar, March 2, 2011.

Speaker/Presenter – Webinar on "Dangerous Legal Opinions", Charity Law Information Program.

- Facilitator – Hamilton Law Association Professionalism Case Studies - Personal Injury Law and Workplace Safety and Insurance – December 5, 2011.
- 2010 Host, Hamilton Law Association, Commercial Litigation Section Dinner, October 6, 2010.
- 2009 Co-Chairman of the 4th Annual Hamilton Law Association “Current Issues In Commercial Litigation” Seminar, March 12, 2009.
- Member – Board of Directors of Mark Preece Family House.
- Speaker at Hamilton Law Association 9th Annual Advocacy Conference re: Update on Class Actions, April 30, 2009.
- Article published May, 2009 edition “Commercial Litigation Review” Volume 7, Number 2. Co-author of article on Blended Retainer Agreements with Heather C. Devine and James Tausendfreund(Gowlings).
- Multiple appearances as guest legal commentator on CHML radio program re: Facebook Terms of Service, Access to Courts for terror victims, etc.
- 2008 Co-Chairman of the 3rd Annual Hamilton Law Association “Current Issues In Commercial Litigation” Seminar, March 27, 2008.
- Member – Board of Directors of Mark Preece Family House - a family house located near Hamilton General Hospital to provide close, accessible and affordable short-term accommodation for the families of adult patients in Hamilton hospitals.
- 2007 Co-Chairman of the 2nd Annual Hamilton Law Association “Current Issues In Commercial Litigation” Seminar, April 12, 2007.
- 2006 Multiple appearances as guest legal commentator on CHML radio program re: Payday Loan litigation.
- Chairman of the 1st Annual Hamilton Law Association “Current Issues In Commercial Litigation” Seminar, April 6, 2006.

2005

Speaker at Advocate's Society, Court House Series, seminar re: "Mock Summary Judgment Motion and Effective Advocacy in Motions Court", February 10, 2005.

Speaker at Cross-Border Commercial Litigation Seminar re: "Class Actions: Cross-Border Issues", April 7th and 8th, 2005.

Speaker at The 5th Annual Advocacy Conference, seminar re: Class Actions: Nuts & Bolts of a Class Action, April 20, 2005.

Appeared as guest commentator on various legal issues on CH TV "Live @ 5:30" television news program.

2004

Achieved successful settlement of Class Action claim against Bell Canada on a national basis on behalf of approximately 750,000 subscribers to Bell Canada's First Rate™ long distance plan in connection with unilateral billing changes. Settlement Agreement signed March, 2004; Court approval obtained May, 2004.

Received widespread media exposure in respect of settlement of Bell First Rate Class Action, including articles in Toronto Star (lead story in Business Section, etc.,) Hamilton Spectator, etc.

Appeared as guest commentator on legal issues on CH TV "Live @ 5:30" television news program.

Received significant media exposure regarding new class action claim against Bell Canada relating to modem hijacking, including articles in the Toronto Star, Hamilton Spectator, radio news broadcasts and appearances on CH TV television news program.

Legal Commentator on CH TV involving television appearances on various legal topics.

2003

Speaker - Insight Conference: Class Actions - The Litigators' Conference, "Certification Update", January 27 and 28, 2003.

Speaker - Ontario Trial Lawyers Association Spring Conference, Class Actions, May 31, 2003.

Achieved successful settlement of Class Action claim against Canada Post Corporation, Cybersurf Corp. and 3Web Corp. on a national basis on behalf of approximately 150,000 customers who purchased a CD-Rom product that did not function as represented. Settlement Agreement signed July, 2003; Court approval obtained December, 2003.

2002

Attendance in St. Louis, Missouri for participation in Association of Fundraising Professionals International Conference on Fundraising.

Speaker - Lorman Education Services Seminar – “Employee Leave Issues April 27, 2002”.

Speaker - The Canadian Institute, “Litigating Class Actions Seminar”, September 26 and 27, 2002.

2001

Achieved successful settlement of Vanishing Premium Class Action Claim against Canada Life Assurance Company on a national basis on behalf of approximately 135,000 policyholders. Settlement Agreement signed February. Court Approval obtained April.

Attendance in San Diego, California for participation in Association of Fundraising Professionals International Conference on Fundraising.

Founding principal of Freewills.com, an online free will-preparation service that uniquely links will-preparation with the encouragement and availability of charitable giving.

Involvement included all aspects of business start-up including strategic vision, conceptualization, design and development of product, overall management, marketing and sales, operations, implementation, securing Subscriptions, preparation of business plan, etc.

Speaker - Lorman Education Services Seminar, “Employee Leave Issues/Maternity and Parental Leave Issues”, April 26, 2001.

Speaker- Lorman Education Services Seminar, “Employee Termination in Ontario: Navigating the Process - Important Termination Concerns”, May 17, 2001.

Article published, Spring, 2001 issue of the The Litigator. Journal of the Ontario Trial Lawyers Association – “Class Proceedings and Product Liability Claims”.

Achieved successful settlement of Vanishing Premium Class Action Claim against London Life Insurance Company on a national basis on behalf of approximately 890,000 policyholders (settlement value \$260M). Settlement Agreement signed June, 2001; Court approval obtained October, 2001; Final Court approval by Ontario Court of Appeal, February, 2002.

Attendance in Indianapolis, Indiana for participation in National Association of Gift Planners Conference.

2000

Member - Advocates' Society.

Member - Ontario Trial Lawyers' Association.

Member - American Trial Lawyers' Association.

Continuing involvement as Lead Counsel in large Class Action claims including attendances in New York and Vancouver in respect of such matters.

Article published - Lorman Education Services Seminar – “Employee Termination in Ontario: Navigating The Process Important Termination Concerns”.

Speaker - Downtown Rotary Club – “The Internet: Changing the Dynamics of Small Business in Canada”.

1999

Member - Advocates' Society.

Member - Ontario Trial Lawyers' Association.

Member - American Trial Lawyers' Association.

Speaker - Ancaster Mens Club - Litigation Procedures and Class Actions.

Founding principal of e-incorp Inc., Canada's online corporate services provider.

1998

Member - Advocates' Society.

Member - Ontario Trial Lawyers' Association.

Member - American Trial Lawyers' Association.

Participation in Alberta Trial Lawyers Conference ("Rockies Rendezvous"), Banff Springs, Alberta.

1997

Member - Advocates' Society.

Member - Ontario Trial Lawyers' Association.

Member - American Trial Lawyers' Association.

Retained as Class Counsel on several large complex claims under the Class Proceedings Act acting for hundreds of thousands of class members in claims involving millions of dollars.

Received significant media exposure regarding the Class Action claims including Articles in The Globe & Mail, The Financial Post, Toronto Star, etc.

1996

Member - Advocates' Society.

Member - Editorial Board
The Hamilton Lawyer Newsmagazine.

Speaker - Hamilton Law Association
"Arguing Motions in Ontario Court (General Division)".

Speaker - The Advocates' Society
"Alternative Dispute Resolution".

Speaker - The Law Society of Upper Canada, The Ontario Court of Justice and The Canadian Bar Association - Ontario - "The Simplified Rules of Civil Procedure".

1995

Trustee of the Board of Directors,
Hamilton Law Association.

Member - Editorial Board
The Hamilton Lawyer Newsmagazine.

Speaker - Hamilton Law Association
"Preparing Witnesses to Give Evidence at Trial".

Speaker - CHCH TV
On-air television appearances dealing with legal topics.

1994

Trustee of the Board of Directors,
Hamilton Law Association.

Editor-In-Chief,
The Hamilton Lawyer Newsmagazine.

Member - Library Committee,
Hamilton Law Association.

Speaker - Hamilton Law Association,
"Evidence: A Practical Guide".

Speaker - C.F.M.U. Radio
"Court Process and Procedure".

Lecturer/Speaker - Ontario Trial Lawyers Association Spring
Conference "Breach of Fiduciary Duty".

1993

Trustee of the Board of Directors,
Hamilton Law Association

Editor-In-Chief, The Hamilton Lawyer Newsmagazine.

Member - Library Committee,
Hamilton Law Association.

Regular contributor to The Hamilton Lawyer Newsmagazine,
Restaurant Review column.

Speaker - Hamilton Law Association,
Practical Tips for the Courtroom.

1992

Trustee of the Board of Directors,
Hamilton Law Association.

Member - Editorial Board,
The Hamilton Lawyer Newsmagazine.

Member - Library Committee,
Hamilton Law Association.

Chairman - Young Lawyers' and Articling Students'
Committee - Hamilton Law Association.

Article published, September, 1992
Contact Magazine
"What to Expect in a Lawsuit".

- Article published, September, 1992
The Hamilton Lawyer Newsmagazine
"Fiduciary Obligations of Real Estate Agents".
- 1991 Member - Editorial Board, Hamilton Law Association
Newsmagazine.
- Vice-Chairman - Library Committee, Hamilton Law
Association.
- Article published, May, 1991
Hamilton Law Association Newsmagazine
"Civil Pre-Trials - Maximizing Their Effectiveness".
- Article published, September, 1991
Hamilton Law Association Newsmagazine
"Interlocutory Injunction Applications - Practical Tips".
Guest speaker - Kelsey's Restaurant Managers' Meeting
"Tort Liability for Serving Liquor in the Hospitality Industry".
- Guest speaker - LMC Management Consultants
Employment Law Seminar
"Fiduciary Obligations of Employees".
- 1990 Member - Editorial Board, Hamilton Law Association
Newsmagazine.
- Member - Library Committee, Hamilton Law Association.
- Article published, January, 1990
Hamilton Law Association Newsmagazine
"Far Eastern Observations".
- Article published, June/July, 1990
Hamilton Law Association Newsmagazine
"Use of Facta in Motions Court".
- Article published, September, 1990
Hamilton Law Association Newsmagazine
"Court Reform in the Central South Region".
- 1989 Article published, February, 1989
Hamilton Law Association Newsmagazine - "Arguing
Motions in District and Supreme Court: A Back to Basics
Guide".
- Articles published, June, July/August, September and
December, 1989

Let's Talk Business Magazine - Hamilton and Niagara Editions - Four part series on Business Contracts.

Speaker - Cathedral Girls' High School
Topic - Tort Law and Civil Litigation.

Speaker - Hamilton Catholic High Schools
Conducted mock civil trial.

Speaker - C.H.M.L. Radio
John Hardy Show "Your Day in Court".

Attendance in Tokyo, Japan to conduct cross-examinations on a complex commercial litigation matter involving a heavy equipment distributorship agreement. Multi-million dollar settlement ultimately achieved.

- | | |
|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1984 to 1985 | Assisted Justice David M. Steinberg of the Unified Family Court with research for his text, <u>Family Law in the Family Courts</u> , Carswell, 1986. |
| 1983 | Achieved standing of 1 st in graduating class from McMaster University, May, 1983 |
| 1979 | Class Valedictorian - Graduating Class - Cathedral Boys' High School. |

CERTIFICATION AND SUCCESSFUL RESOLUTION OF CLASS PROCEEDINGS

2016

Dow et al. v. 407 ETR Concession Company Limited et al., ONSC 7086 – certification, settlement approval and class counsel fee approval – November 15, 2016, the Honourable Mr. Justice Perell

2015

Emms v. Christian Economic Assistance Foundation, 2015 ONSC 7664 – certification, settlement approval and class counsel fee approval - December 8, 2015, the Honourable Mr. Justice Perell

2013

McKee's Carpet Zone v. Sears Canada Inc., Sears, Roebuck and Co. and Home Coverings Buying Group Inc. – Court approval of settlement – December 6, 2013, the Honourable Mr. Justice Belobaba.

2012

Robinson v. Rochester Financial et al. 2012 ONSC 911 – Court approval of settlement – January 17, 2012, the Honourable Mr. Justice Strathy.

Woods v. Redeemer University College and Redeemer Foundation 2012 ONSC 7254 – Certification, settlement approval and class counsel fee approval, December 19, 2012, the Honourable Mr. Justice Perell

2011

Levesque v. Ford Motor Company of Canada – Court approval of settlement – November 9, 2011, the Honourable Mr. Justice Sproat.

2010

Robinson v. Rochester Financial et al. 2010 ONSC 463 – Certified, January 19, the Honourable Madam Justice Lax.

Levesque v. Ford Motor Company of Canada – Certified – January 21, the Honourable Mr. Justice Sproat.

McKee's Carpet Zone v. Sears Canada Inc., Sears, Roebuck and Co. and Home Coverings Buying Group Inc. 2010 ONSC 5673 – Certified – August 23, the Honourable Mr. Justice Strathy.

Stephanie Graham and Angela Miceli v. Imperial Parking Canada Corporation carrying on business as Impark 2010 ONSC 4982 – Certified – September 16, the Honourable Mr. Justice Perell.

2009

Zonolite Attic Insulation – CCAA Court approval of enhanced settlement on behalf of all Canadian ZAI claimants, December 13, the Honourable Mr. Justice Morawetz, Superior Court of Justice – Commercial Court, leave to appeal to the Ontario Court of Appeal denied February 19, 2010, Chief Justice Winkler, Justices MacPherson and Gillese;

Watson et al v. Northstar Aerospace, Inc., and Northstar Aerospace (Canada) Inc. – Certification and court approval of settlement, June 18, the Honourable Mr. Justice Perell.

2008

McCutcheon v. The Cash Store et al. [2008] O.J. No. 5241 (S.C.J.)– Court approval of settlement, December 2, the Honourable Mr. Justice Cullity.

Zonolite Attic Insulation – CCAA Court approval of settlement on behalf of all Canadian ZAI claimants, October 17, the Honourable Mr. Justice Morawetz, Superior Court of Justice – Commercial Court.

2007

Bellaire/LaRocca et al. v. Salim Daya and Hamilton Health Sciences Corporation, [2007] O.J. No. 4819 – Certification and court approval of settlement, December 14, the Honourable Madam Justice Hoy.

2006

McCutcheon v. The Cash Store et al, [2006] O.J. No. 2360 - Certified May 10, the Honourable Mr. Justice Cullity.

Jones v. Royal Botanical Gardens et al - Certification and court approval of settlement, September 28, the Honourable Mr. Justice Crane.

Humphreys et al. v. Select Financial et al., (Hamilton Court file No. 01-3510CP) (Unreported) - Certification and court approval of settlement, November 2, the Honourable Mr. Justice Crane.

Zonolite Attic Insulation – Appointed as Representative Counsel for all Canadian ZAI claimants, February 8, the Honourable Mr. Justice Farley.

2004

Sajecki v. Bell Canada - Certification and court approval of settlement, May 10, the Honourable Mr. Justice Crane.

2003

McArthur v. Canada Post Corporation et al, [2004] O.J. No. 1406 - Certification and court approval of settlement, December 22, the Honourable Mr. Justice Crane.

2001

Gibbs v. Canada Life Assurance Co., [2001] O.J. No. 6269 - Certification and court approval of settlement, April 4, the Honourable Mr. Justice Cumming.

Directright Cartage Ltd. v. London Life Insurance Co., [2001] O.J. No. 4073 - Certification and court approval of settlement, October 18, the Honourable Mr. Justice Cumming.

CURRENT CLASS PROCEEDINGS

Angelina Rivers et al. v. Waterloo Regional Police Services Board et al. – This proceeding is brought on behalf of all female person who were or are presently Members of the Waterloo Regional Police Services Board.

Luc Lafreniere v. Subaru Limited, SACL Auto Canada Ltd. and Subaru Canada, Inc. – This proceeding is brought on behalf of all individuals who reside in Canada, except those who reside in Quebec, who own a Subaru 2011-2014 Forester, 2013 Legacy, 2013 Outback, 2012-2013 Impreza, and 2013 XV Crosstrek which vehicle has a FB engine and who are experiencing substantial increased oil consumption.

Klassen et al. v. City of Hamilton (Red Hill Valley Parkway) – This proceeding is brought on behalf of all persons who drove a motor vehicle on the RHVP after November 1, 2007, and who were involved in a motor vehicle accident, and all *FLA* section 61 family members of Class Members.

REPRESENTATIVE WORK - REPORTED DECISIONS AS COUNSEL

Rivers v. Waterloo Regional Police Services Board, 2018 ONSC 4307

Adili et al v. Homes of Distinction Inc. et al 2018 ONSC 1673

Resolute Development Inc. v. Juravinski, 2017 ONSC 2109

Martino v. College of Nurses, 2017 ONSC 6892

Richard Sherk et al. v. Mark Sherk et al., 2017 ONSC 7177

Crooks Hollow Farm Corporation v. Bruce Eco Landbank Inc., 2017 ONSC 6473

2128445 Ontario Inc. v. Sherk, 2017 ONSC 5996

Dow et al. v. 407 ETR Concession Company Limited et al., ONSC 7086

Richard Sherk et a.l v. Mark Sherk et al., 2016 ONSC 7772

Richard Sherk et al. v. Mark Sherk et al., 2016 ONSC 331

407 ETR Concession Co. v. Canada (Superintendent Bankruptcy), 2015 SCC 52 (CanLII)

Emms v. Christian Economic Assistance Foundation, 2015 ONSC 7664 (CanLII)

Richard Sherk et al v. Mark Sherk et al, 2015 ONSC 7213

1475707 Ontario Inc. Operating as Action Electric Construction and Maintenance v. Foran, 2014 ONCA 830 (CanLII)

1475707 Ontario Inc. v. Foran, 2013 ONSC 6882 (CanLII)

Pavone et al v. 603631 Ontario Limited et al, 2013 ONSC 5172 (CanLII)

578115 Ontario Inc. o/a McKee's Carpet Zone v. Sears Canada Inc., 2013 ONSC 4135 (CanLII)

Canada (Superintendent of Bankruptcy) v. 407 ETR Concession Company Limited, 2013 ONCA 769 (CanLII)

Robinson v. Rochester Financial et al. 2012 ONSC 911

Robinson v. Rochester Financial Limited, 2011 ONSC 3291 (CanLII)

Stephanie Graham v. Imperial Parking Canada Corporation, 2011 ONSC 991 (CanLII)

578115 Ontario Inc. (c.o.b. McKee's Carpet Zone) v. Sears Canada Inc., 2011 ONSC 240 (CanLII)

578115 Ontario Inc. (c.o.b. McKee's Carpet Zone) v. Sears Canada Inc. 2010 ONSC 5673 (CanLII)

Robinson v. Rochester Financial Limited, 2010 ONSC 5116 (CanLII)

Graham v. Impark, 2010 ONSC 4982 (CanLII)

578115 Ontario Inc. v. Sears Canada Inc., 2010 ONSC 4571 CanLII

Robinson v. Rochester Financial Limited, 2010 ONSC 4523 (CanLII)

Penney v. Bell Canada, 2010 ONSC 3947 (CanLII)

Penney v. Bell Canada 2010 ONSC 2801 (CanLII)

Robinson, v. Rochester Financial Limited, 2010 ONSC 1899 (CanLII)

Robinson v. Rochester Financial et al. 2010 ONSC 463

Grace Canada, Inc., 2010 ONSC 161 (CanLII)

Wamboldt et al. v. Northstar Aerospace et al., 2009 CanLII 31984 (ON SC)

Grace Canada Inc. (Re), 2009 CanLII 16575 (ON SC)

McCutcheon v. The Cash Store et al, 2008 CanLII 67900 (ON SC)

Grace Canada, Inc (Re), 2008 CanLII 54779 (ON SC)

Bellaire/LaRocca et al. v. Salim Daya and Hamilton Health Sciences Corporation, 2007 CanLII 53236 (ON SC)

Carriere v. Bell Canada, 2006 CanLII 19490 (ON SC)

McCutcheon v. Cash Store Inc., 2006 CanLII 15754 (ON SC)

Martel Commercial Realty Inc. v. Hamilton – Burlington and District Real Estate Board, 2005 CanLII 25101 (ON SC)

McArthur v. Canada Post Corporation et al, [2004] O.J. No. 1406

1146726 Ontario Inc. v. National Trust Co. [2004] OJ 2271

McArthur v. Canada Post Corp., 2004 CanLII 20131 (ON SC)

G.P.I. Greenfield Pioneer Inc. v. Moore, 2003 CanLII 3500 (ON SC)

Directright Cartage Ltd. v. London Life Insurance Co., [2002] O.J. No. 512

G.P.I. Greenfield Pioneer Inc. et al. v. Moore [2002] 58 O.R. (3d) 87

Directright Cartage Ltd. V. London Life Insurance Co. 2002 CanLII 15923 (ON CA)

G.P.I. Greenfield Pioneer Inc. v. Moore, 2002 CanLII 6832 (ON CA)

Gibbs v. Canada Life Assurance Co., [2001] CarswellOnt 1368, 10 C.P.C. (5th) 332

Directright Cartage Ltd. v. London Life Insurance Co., [2001] O.J. No. 4073

Drain-All Ltd. v. Tankmart Leasing Inc. [1999] O.J. No. 5049 (S.C.J.)

Albanese v. Albanese [1999] O.J. No. 4911

Albanese v. Albanese, 1999 CanLII 14932 (ON SC)

Canadian Red Cross Society (Re) [1998] O.J. No. 3306 (Ont. Ct. Gen.Div)

Canadian Red Cross Society (Re) [1998] O.J. No. 3307 (Ont. Ct. Gen.Div)

Canadian Red Cross Society (Re) [1998] O.J. No. 3513 (Ont. Ct. Gen.Div)

Canadian Red Cross Society/Société canadienne de la Croix-Rouge, Re, 1998 CanLII 14907 (ON SC)

Posthumus v. Garner [1995] O.J. No. 3362 (Ont. Ct.) (Gen.Div)

Thiel v. Milmine [1995] O.J. No. 3074 (Ont. Ct.) (Gen.Div)

Canpro Paving & Concrete Inc. v. Lewin [1994] O.J. No. 2329 (Ont. Ct.) (Gen.Div)

778286 Ontario Inc. v. Lukas [1992] O.J. No. 1530 (Ont. Ct.) (Gen. Div.)

C.N. Weber Ltd. V. Moncur [1991] O.J. No 1125 (S.C.J.) (Gen.Div.)

Intine v. Poos [1990] O.J. No. 2054 (Ont. Ct.) (Gen. Div.)

REPRESENTATIVE WORK – ESTATE TRUSTEE DURING LITIGATION (“ETDL”)

Edmond Lum Estate, appointed ETDL pursuant to order of Justice Reilly, November 3, 2015

- management of estate bank account;
- management of residential property in Ancaster, including multiple property inspections; arranging for property insurance;
- management of safety deposit box assets;
- management of investment portfolio;
- preservation and appraisal of sports memorabilia;
- preservation and appraisal of antique motor vehicle;
- inventory of all personal belongings and house contents, etc.;
- management and arrange for payment of estate debts, including property taxes, utilities bills, etc.;
- attend to distribution of estate assets;

Donald Arthur Rickard Estate, appointed ETDL pursuant to order of Justice Coats, September 17, 2018

- arrange for valuation of residential property in Burlington;
- management and arrange for payment of estate debts, including property taxes, utilities bills, etc.;
- attend to distribution of estate assets, including jewelry;

Veronika Toth Estate, appointed ETDL pursuant to order of Justice Chozik, February 7, 2019

- arrange for valuation of condo in Burlington;
- management and arrange for payment of estate debts, including property taxes, utilities bills, etc.;
- execution of all necessary documents with respect to sale of condo;

Anne Patricia Kay Estate, appointed ETDL pursuant to order of Justice Sweeny, March 18, 2019

- management of estate bank accounts;
- management of multiple counsel and beneficiaries;
- management of multiple court proceedings;
- management of multiple monetary claims against the estate;
- management of multiple claims with respect personal belongings of the estate;

TESTIMONIALS

ENDORSEMENTS

“Scarfone Hawkins has been providing legal advice to Shipway Stairs for over 30 years. During that time, the firm has demonstrated its broad knowledge by offering excellent advice and guidance on our real estate dealings, corporate matters, personnel and legal disputes. The genuine concern for us and our business is always evident and we appreciate the professional approach and prompt response times.

The firm has been a part of our successful journey and we would have no hesitation to recommending their services”.

Sandra Connell, Controller, Shipway Stairs Limited

“Dave Thompson and his team at Scarfone Hawkins have been a valuable resource to Custom Ice Inc. for the last few years. We are certainly pleased with the service they have provided especially with regards to the accessibility Dave has shown for all our needs, both small and large.

Dave’s advice on our smaller matters has helped us clean up and get back to our core business with minimal disruption.

On larger litigation matters Dave and the fine people at Scarfone Hawkins have kept us informed and up to date on daily case communications allowing them to provide valuable advise to see us through several resolutions.

Custom Ice has a great deal of confidence in Scarfone Hawkins and we would certainly recommend them for any similar kinds of litigation work”.

Brendan Lenko, President, Custom Ice Inc.

“Matt Moloci and David Thompson, of Scarfone Hawkins, handled a complicated civil employment action, on my behalf, in a most professional manner. They strategically outmaneuvered the defendant through their in depth legal knowledge and the application of that knowledge. Their efforts compressed what would normally have been a one year, or more, action to only five months and achieved the desired result. Matt, especially, was assiduous throughout the action which meant reduced stress for myself. He was available at all times, took a genuine interest in my case and was ubiquitous throughout the activity. I strongly recommend consideration of Scarfone Hawkins for any legal activities”.

Jim Aziz
Managing Director, Baja Group Consultants
Senior Advisor to the International Monetary Fund

“For the past 5 years I have tested all of your skills and patience. We presented you with a case that was very complex and required a mindful, highly organized team to rectify and organize our records for evidence.

I began by interviewing several law firms. Your enthusiasm, knowledge of relevant matters, and the size of the team determined our only logical choice. After hiring the Scarfone Hawkins team, it didn't take long to realize that we had made the right decision. Your team knew every aspect of our case inside and out, right from the outset. My confidence grew.

Even after 5 years of testing your patience, I was always treated with the utmost of respect.

The team's handling of my father's involvement was simply remarkable. They were always aware of the stresses of certain situations and made my Father at ease and comfortable with the matters.

Inside the courtroom, David Thompson and Matthew Moloci are a cut above the rest.

I would recommend Scarfone Hawkins LLP to anyone who asked. I am very proud of my decision to hire them, and would do so again without hesitation”.

**Paul McKee, McKee's Carpet Zone
Newmarket, Ontario**

“I am the President/CEO & co-owner of Battlefield Graphics Inc. in Burlington, Ontario. We have been a client of Scarfone Hawkins LLP for over 20 years. I am extremely pleased with the promptness and professionalism demonstrated by their lawyers. I use them for all my personal affairs and have benefited from the scope of their knowledge and experience. I strongly recommend Scarfone Hawkins LLP for all your legal matters”.

Jerry Theoret, Battlefield Graphics Inc., President/CEO

“We were all a team in getting this done. My hat goes off to the 407 team at SH Law!”

Peter Teolis, Beaverton

“I would just like to thank everyone from your firm who has had a hand in this 407 action. You three guys who have been the main contact/work horses, Dave, Matt and Paul, you guys have done a phenomenal job...thank you, thank you, I love you guys.”

Mike Dow, Vancouver

“My company retained Scarfone Hawkins LLP, and specifically the Thompson/Moloci/Stanton team (David Thompson and Brent Marshall) to conduct a lengthy trial six weeks before the

commencement of trial when it turned out that my prior counsel could not conduct the trial as he would have to give evidence.

The litigation had been ongoing for approximately seven years and the file consisted of thousands of pages and dozens of banker's boxes.

David and Brent and their entire team worked tirelessly to get "up-to-speed" very quickly starting at the end of February, 2017 with a view to starting the trial on April 1, 2017.

Scarfone Hawkins LLP was assisted in its efforts by my long-time, trusted corporate lawyer/advisor, William P. Dermody, and by my outstanding accountant. The entire team collaborated effectively to provide my company with the support and representation needed in the circumstances.

The trial proceeded and I was absolutely delighted with the representation my company received in and out of the courtroom.

After many months of reserve, the trial judge delivered a decision which is a complete victory for me and a vindication of my position throughout seven years of long, difficult dispute.

David and Brent are superb trial lawyers. They dominated the courtroom and were extremely well prepared for every witness and every issue.

I have absolutely no hesitation in providing my highest recommendation of Scarfone Hawkins LLP and the TMS team in respect of any litigation needs, in particular complicated, difficult and acrimonious commercial litigation."

Charles Juravinski, Chief Executive Officer, Juravinski Group

"We were introduced to Scarfone Hawkins and specifically David Thompson and Matthew Moloci after unsuccessfully moving through an ugly and drawn-out shareholder dispute. Our first counsel was a large Bay Street law firm that, while competent, certainly lacked a sense of urgency to resolve this dispute. Through 18 months we gained little ground and spent hundreds of thousands of dollars. As a result of this experience, we arrived at Scarfone Hawkins frustrated and bewildered.

Immediately David and Matthew summarized where we were and what next steps needed to be towards resolution. My immediate impression that they were results-oriented and very client-focussed. "What do you want to see happen?" was a question we were asked early on in the process. The difference with Scarfone Hawkins was clearly a sense of urgency and a capacity to understand our motivations and objectives and then meet those objectives with a sensible, results-oriented action plan. We were able to resolve this dispute in 3 months in our favour. The whole process was effective and very fair, costs and actions were always justified. David and Matthew showed a personal empathy towards our situation as well as what we faced that greatly eased the stress and burden that the previous 18 months had caused.

My wife and I owe a debt of gratitude to both David and Matthew, and their team at Scarfone Hawkins”.

Steven and Nancy Simonot
Oakville, Ontario

“As a lawyer who has managed a general law practice for over 40 years, my clients on occasion require expert legal representation in litigation matters.

For the past number of years, I have called and relied upon the litigation team at Scarfone Hawkins LLP to provide such services to my clients.

In accepting these client referrals, the litigation team at Scarfone Hawkins LLP has:

- (a) creatively and professionally served the best interests of my clients;*
- (b) were considerate and sensitive to the needs of my clients;*
- (c) ensured that full disclosure was provided to my clients; and*
- (d) provided quality legal services on a reasonable cost effective basis.*

Their specialized knowledge and experience have served my clients well and I continue to recommend their legal services to my clients when needed”.

Jerry Ingrassia
Hamilton, Ontario

“We were introduced to Scarfone Hawkins and more specifically David Thompson and Brent Marshall through local business associates. To say they came highly recommended is an understatement. We were in need of a law firm that wasn’t afraid to fight for us, while keeping in mind that we are a small business with limited resources. David and Brent were focused on getting us a quick resolution at manageable costs. They have such a wonderful way of balancing that personal touch with professional ferocity. I certainly wouldn’t want to face them on the opposite side of a courtroom!

We would highly recommend using David and Brent for any and all of your legal needs”.

Denise Burke
President, Niagara IceDogs

FROM THE BENCH

Directright Cartage Ltd. v. London Life Insurance Company (Mr. Justice Cumming, October 18, 2001):

“The Class Counsel in the case at hand is experienced in class proceedings. It is apparent from the evidence and submissions at the fairness hearing that the class members have been well represented.”

Thompson McCutcheon v. The Cash Store Inc. and Rentcash (Mr. Justice Cullity, May 10, 2006):

“He has retained experienced counsel and - notwithstanding the need to prove and rely upon the laws of other Canadian jurisdictions to a limited extent - I see no reason to doubt that his interests and those of the class will be adequately represented.”

Bellaire et al v. Daya et al (Madam Justice Hoy, December 7, 2007):

“Class Counsel funded the disbursements and inventoried their time. The Distribution Plan crafted reflects counsel’s very considerable experience and provides a cost-efficient manner of distributing proceed of settlement to Class members”.

Robinson v. Rochester Financial Limited, 2010 ONSC 5116 (Mr. Justice Strathy):

[Scarfone Hawkins] *“are experienced litigation counsel and specialists in the class action area... the work undertaken was necessary, reasonable and performed with a high level of skill and diligence”.*

Robinson v. Rochester Financial Limited, 2012 ONSC 911 (Mr. Justice Strathy):

[David Thompson and Matthew Moloci] are *“highly-qualified and reputable counsel”*. *The action would not have been commenced let alone resolved had it not been for their “initiative, tenacity and persistence...in the face of widespread apathy on the part of all Class Members”.*

“Class Counsel have demonstrated commendable diligence, perseverance and skill in pursuing a challenging piece of litigation and bringing it to a successful conclusion”.

Resolute Development Inc. v. Juravinski, 2017 ONSC 2109
(Madam Justice L.C. Leitch)

“As I indicated at the conclusion of the trial, the parties were well represented by their counsel [David Thompson and Brent Marshall] who put their clients’ positions forward very ably and fairly. The documentary record was detailed, accurate and well-organized. The trial proceeded as efficiently as possible and at all times counsel conducted themselves with utmost civility”.

MATTHEW G. MOLOCI

CURRICULUM VITAE

PROFESSIONAL EXPERIENCE

1999 to Present

SCARFONE HAWKINS LLP

Barristers and Solicitors
One James Street South
Suite 1400
Hamilton, Ontario
L8P 4R5

Partner - 2007 to Present
Associate - 1999 to 2007

Practice areas: bankruptcy/insolvency, commercial, construction, employment, estates, class action litigation, trial, appeal, tribunal, mediation and arbitration

1998 to 1999

PENMAN & PENMAN LLP

Toronto, Ontario

Associate Lawyer, Litigation

1996 to 1997

STEWART, ESTEN LLP

Barrie, Ontario

Articling Student

1995

MILLER THOMSON LLP

Toronto, Ontario

Summer Law Student

1985 to 1993

TNT CANADA INC./TRANSFREIGHT INC.

Manager, Specialized Transportation and Logistics

Eight-year career in management of specialized transportation

EDUCATION

February 26, 1998	Called to Ontario Bar, Law Society of Upper Canada
1993 to 1996	Bachelor of Laws, Dalhousie University
1984 to 1986	Motor Carrier Administration, Sheridan College of Applied Arts and Technology

CURRENT CLASS PROCEEDINGS

Mossman v. Berkshire et al. – This proceeding is brought on behalf of all individuals who participated in the Berkshire leveraged charitable donation program in the taxation years 2001, 2002 and 2003.

LaFreniere v. Subaru Limited et al. – This proceeding is brought on behalf of all individuals who purchased class vehicles with defective engines.

NOTABLE CLASS PROCEEDING CASES

2016

Dow et al. v. 407 ETR Concession Company Limited et al. – certification, settlement approval and class counsel fee approval – November 15, 2016, the Honourable Mr. Justice Perell

2015

Emms v. Christian Economic Assistance Foundation, - certification, settlement approval and class counsel fees approval - December 8, 2015, The Honourable Mr. Justice Perell. This proceeding was brought on behalf of individuals whose charitable donation receipts to CEAF were denied by CRA.

2013

578115 Ontario Inc. o/a McKee's Carpet Zone, et al. v. Sears Canada Inc., et al – Certified, August 23, 2010, The Honourable Mr. Justice Strathy. Settlement approval, December 6, 2013, The Honourable Mr. Justice Belobaba. This proceeding was brought on behalf of all individuals or entities in Canada who/which entered into a license agreement with Sears for operation of a “Sears Floor Covering Centre”, since 1998, and alleged undisclosed rebates and/ secret commissions.

2012

Robinson v. Rochester Financial et al. – Certified, January 19, 2010, The Honourable Madam Justice Lax. Leave to appeal dismissed, The Honourable Mr. Justice Dambrot. Settlement

approval, January 17, 2012, The Honourable Justice Strathy. This proceeding was brought on behalf of persons who participated in the Banyan Tree Gift Program, a leveraged charitable donation program, for taxation years 2003 to 2007, which donation tax receipts and credits were denied by Canada Revenue Agency.

Woods v. Redeemer – Certification and Settlement approval December 19, 2012, The Honourable Mr. Justice Perell. This proceeding was brought on behalf of individuals whose charitable donations to Redeemer were denied by CRA.

2010

Graham v. Impark – Partial Certification, September 16, 2010, The Honourable Mr. Justice Perell.

2008

McCutcheon v. The Cash Store et al. – Court approval of settlement, December 2, 2008, The Honourable Mr. Justice Cullity.

Re: Grace Canada Inc. - Zonolite Attic Insulation – Appointed as Representative Counsel for all Canadian ZAI claimants, February 8, 2006 by The Honourable Mr. Justice Farley. CCAA Court approval of settlement on behalf of Canadian ZAI claimants, October 17, 2008, The Honourable Mr. Justice Morawetz.

2006

McCutcheon v. The Cash Store et al. – Certified, May 10, 2006, The Honourable Mr. Justice Cullity. Court approval of Settlement, December 17, 2008, The Honourable Mr. Justice Cullity.

Humphreys et al. v. Select Financial et al. – Certification and court approval of settlement, November 2, 2006, The Honourable Mr. Justice Crane.

Jones v. Royal Botanical Gardens et al. – Certification and court approval of settlement, September 28, 2006, The Honourable Mr. Justice Crane.

2003

McArthur v. Canada Post Corporation et al. – Certification and court approval of settlement, December 22, 2006, The Honourable Mr. Justice Crane.

2001

Gibbs v. Canada Life Assurance Co. – Certification and court approval of settlement, April 4, 2001, The Honourable Mr. Justice Cumming.

Directright v. Cartage Ltd. v. London Life Insurance Co. – Certification and court approval of settlement, October 18, 2001, The Honourable Mr. Justice Cumming.

NOTABLE CIVIL LITIGATION CASES

Dice v. Dice Estate (2011), Lead counsel on application and appeal.

Shekhdar v. K & M Engineering and Consulting Corporation (2004), Lead counsel at two trials, various appeals and interlocutory matters.

Schaible Electric Ltd. v. Melloul-Blamey Construction Inc. (2005), Lead counsel at trial and on appeal.

Choquette v. 995146 Ontario Ltd. (2004), Lead counsel at trial and on appeal.