

## Representative Work

The range of clients Osler currently provides counsel to, or has represented in the past, is equalled only by the diversity of commercial litigation challenges we have assisted with.

A few high profile examples follow:

- › **Amex Bank of Canada** in two class action merits trials before the Québec Superior Court involving foreign exchange conversion fees on credit cards, and claiming over \$650 million in damages.
- › **The Beaverbrook Art Gallery** in a successful public arbitration and appeal brought by the Beaverbrook Foundation of the United Kingdom in a dispute over some 130 works of art valued at over \$100 million.
- › **The Canadian Civil Liberties Association** in its intervention before the Supreme Court of Canada in a case that dealt with the right to carry a kirpan under the freedom of religion guarantee of s. 2(a) of the *Charter*.
- › **CanWest and The National Post Company** in successfully obtaining summary judgment for \$22.5 million plus compound interest against Hollinger International arising from an agreement by which an affiliate of CanWest purchased the remaining 50% interest of Hollinger International and its affiliates in The National Post Company.
- › **Dell Canada Inc.** in a successful appeal before the Supreme Court of Canada in a matter concerning the ability of companies to oust the provincial class actions regime in favour of a contractual arbitration.
- › **GE Capital Canada** in a successful appeal to the Tax Court of Canada regarding an income tax assessment that denied its deduction of guarantee fees paid to its U.S. Parent. This is a major decision in the growing area of transfer pricing litigation.
- › **Hudson Bay Company** in a class action claim relating to surplus and partial windup issues arising out of the sale of the Northern Stores Division. This case will be argued in the Supreme Court of Canada in 2010.

Osler's Litigation Department is one of the largest and most accomplished dispute resolution teams in Canada. Years of careful recruiting and rigorous training has allowed us to develop deep expertise in complex commercial litigation as well as the litigation specialties that major corporations call on most often: class actions, corporate governance and securities, insolvency, product liability, pension and employment, intellectual property, major contractual disputes, competition, tax as well as noteworthy constitutional and public law matters.

While setting new standards of accomplishment in winning commercial litigation, we also assist clients in identifying and mitigating risks that could lead to new legal exposures. Our deep knowledge of each client's business enables us to intervene effectively to avoid lengthy proceedings or to achieve cost-effective and innovative solutions through early prevention or alternative dispute resolution.

Our litigators appear as counsel in all levels of courts in Ontario, Alberta, Québec and most other Canadian provinces, as well as in the Federal Court and the Supreme Court of Canada. Many also participate regularly in hearings before a variety of provincial and federal tribunals, such as the Financial Services Tribunal, the Ontario Municipal Board, the Environmental Assessment Board and the Ontario Securities Commission. We have represented clients in numerous private arbitrations and mediations. In short, Osler is home to a critical mass of top litigators in their respective fields—with the track records and the loyal and growing client following to prove it. Ask us about:

- › Appeals
- › Class Actions
- › Competition/Antitrust Litigation
- › Constitutional and Public Law
- › Construction and Infrastructure Litigation
- › Corporate Governance and Securities Litigation
- › Cross-Border Litigation

- › **Imperial Tobacco** in potentially the largest proposed class action in Canada. Certification was denied. This class action has produced a number of leading decisions, including respecting the supposed emergent tort of “spoliation”, the destruction of evidence by a party in a lawsuit and the rules regarding the nature of the evidence to be filed on certification. We are also defending several provincial actions claiming health care costs recovery.
- › **Inco Limited** in an environmental class action based in Port Colborne.
- › **Microsoft Corporation** in anti-piracy litigation, licensing disputes and a class action where the court upheld an exclusive jurisdiction clause in Microsoft’s “click wrap” licence agreement – the first case dealing with such agreements in Canada.
- › **The Montreal Alouettes** in an injunction and action in damages related to delivery of a new artificial playing surface to the Olympic Stadium.
- › **SemGroup Corporation’s Canadian business units** in their restructuring under the *Companies’ Creditors’ Arrangement Act*.
- › **Shell Canada Limited** in successfully defending against claims brought by Hunt Oil Company of Canada relating to oil and gas properties in British Columbia. The court’s decision is now a leading case in the area of mutual interest provisions in oil and gas industry agreements.
- › **The American receiver of Stanford International Bank (SIBL)** in defeating the Antiguan liquidators in a battle for control over control of the Canadian assets of SIBL.
- › **State Farm Mutual Automobile Insurance Company** in two separate proposed class actions relating to (1) the use of non-original equipment manufactured parts in insured repairs and (2) the applicability of an insured’s deductible when a vehicle is written off and salvaged.

- › Defamation (Libel and Slander)
- › Energy and Natural Resources Litigation
- › Environmental Litigation
- › Franchise Litigation
- › Insolvency and Restructuring
- › Intellectual Property Litigation
- › International Commercial Arbitration and ADR
- › Municipal Litigation
- › Pensions and Benefits Litigation
- › Product Liability
- › Professional Negligence
- › Tax Dispute Resolution

#### RECOGNITION

A survey by the 2011 *Canadian Legal Lexpert Directory* recognized Osler’s Litigation Department as “consistently recommended” in the areas of Class Actions and Corporate/Commercial Litigation and “repeatedly recommended” for Securities Litigation, with several of our legal practitioners acknowledged as leading individuals in the field. Sources in the 2011 edition of *Chambers Global: The World’s Leading Lawyers for Business* noted that “what distinguishes them is their expertise.”

- › **Ventas, Inc.** in a series of opposing applications to enforce a standstill agreement in relation to Ventas’ acquisition of Sunrise Senior Living Real Estate Investment Trust. Continuing advice was provided in relation to Ventas’ Kentucky lawsuit against HCP Inc. for tortious interference with the transaction, in which Ventas obtained a jury verdict awarding it damages in the amount of US\$101 million.
- › **Westinghouse Canada Inc.** in successfully defending against a complex product liability claim by the New Brunswick Power Corporation (NB Power), as well as an appeal brought by NB Power to the New Brunswick Court of Appeal.

#### CONTACT US

For more information, please visit [osler.com](http://osler.com) or contact one of the following individuals:

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