

# Ara Basmadjian

## Senior Associate



Senior Associate

Toronto

D +1 416 863 4647

ara.basmadjian@dentons.com

## Overview

Ara Basmadjian is a Senior Associate in the Litigation and Dispute Resolution group at Dentons Canada LLP. His practice involves a variety of complex corporate, commercial and civil litigation matters. Ara has particular experience in cases involving commercial contracts, negligence, product liability, class actions, competition law, cannabis in Canada, and extraordinary remedies, such as injunctions. He has appeared before the Ontario Superior Court of Justice (including the Commercial List), the Divisional Court, the Court of Appeal for Ontario, the Supreme Court of British Columbia, and the Federal Court. Ara is the editor of the Firm's *Limitations Law Blog*.

In 2012, Ara was seconded to the enforcement branch of the Investment Industry Regulatory Organization of Canada (IIROC).

In law school, Ara was a senior editor of the *Ottawa Law Review*, and a member of the Dean's Research and Writing Fellowship. In the winter of 2012, he served as Clerk to the Regional Senior Justice at the Ontario Court of Justice (East Region).

## Experience

- **Financial Recovery Strategies, LLC (FRS):** Counsel to FRS, one of the third party claim filers in the cathode ray tube class action, in an appeal on behalf of various class members, resulting in remanding various claims to the claims administrator for further consideration to receive a portion of the net settlement proceeds (*Fanshawe College v. Hitachi, Ltd.*, 2021 ONSC 140).
- **Canadian National Railway Company (CN):** Counsel to CN in a successful motion for an *ex parte* interim injunction preventing a railway blockade (*Canadian National Railway v John Doe*, 2020 CarswellOnt 2403)
- **Confidential Clients:** Acting as counsel to leading online retailers in a successful sequencing application to have a stay application heard as the first step in the proceeding and before the plaintiff's certification application.
- **Canadian National Railway Company (CN):** Acting as counsel to CN in a successful motion for an order that the plaintiff's separate actions against CN and her short and long-term insurance providers be tried at the same time or one immediately after the other (*Sgambelluri v Canadian National Railway*, 2020 ONSC 1099).

- **Sleeman Breweries Ltd. (Sleeman):** Successfully defending Sleeman in a \$1.4 billion proposed class action alleging a conspiracy between the Liquor Control Board of Ontario, The Beer Store, and its shareholders: Molson, Labatt, and Sleeman. All claims were dismissed against Sleeman on a motion for summary judgment and, in the result, the proposed class action was dismissed in its entirety (*Hughes v Liquor Control Board of Ontario*, 2018 ONSC 1723).
- **Enghouse Systems Limited et al.:** Acting as counsel to Enghouse Systems Limited et al. in successfully resisting a motion to appeal a “counsel and experts’ eyes only” protective order in a computer code copyright infringement case (*Arkipelago Architecture Inc. v Enghouse Systems Limited et al.*, 2018 FC 37).
- **Lawyers’ Professional Indemnity Company (LawPro):** Acting as counsel to LawPro in the successful rectification of a spousal trust clause in a will.
- **Market Assessment and Compliance Division (MACD) of the Independent Electricity System Operator (IESO):** Acting as counsel to MACD in its compliance investigation into the trading activity of the Manitoba Hydro-Electric Board (MHEB) on the Manitoba and Minnesota interties resulting in a negotiated settlement in which MHEB paid IESO CDN \$9.6 million.
- **Migao Corporation (Migao):** Acting as counsel to Migao in the acquisition by 2521416 Ontario Inc. and Liu Guocai of all of the outstanding common shares in the capital of Migao by way of plan of arrangement for an enterprise value of approximately CA\$26 million (*Migao Corporation, Re*, 2016 CarswellOnt 22159).
- **Confidential clients:** Acting as counsel to professional services firms in a successful trial for a permanent *quia timet* injunction involving the tort of unlawful means.
- **Confidential clients:** Acting as counsel to professional services firms in a successful motion for an order to hold trial of an action *in camera*.
- **David Beetham:** Acting as counsel to the moving party in a successful motion for costs of a discontinued action involving the alleged breach of a non-competition and non-solicitation agreement (*Complete Packaging Systems v Beetham*, 2016 ONSC 2686).
- **Lawyers’ Professional Indemnity Company (LawPro):** Acting as counsel to LawPro in the successful rectification of several family trusts.
- **Shaw Communications Inc.:** Advising on announced agreement to acquire a 100% interest in Mid-Bowline Group Corp. and its wholly-owned subsidiary, WIND Mobile Corp. by way of plan of arrangement for an enterprise value of approximately CA\$1.6 billion (*Re: Mid-Bowline Group Corp*, 2016 ONSC 669).
- **Otis Canada Inc.:** Acting as counsel to a global manufacturer and service provider of elevators in various product liability and personal injury disputes.
- **Royal Bank of Canada:** Acting as counsel in successfully resisting a motion to (i) compel a second corporate representative to be examined for discovery and (ii) direct a reference to review certain privilege claims related to in-house counsel (*Silvercreek v RBC*, 2014 ONSC 5994).
- **Crown Corporation:** Acting as counsel in successful motions for leave to issue writs of seizure and sale and notices of garnishment.
- **Confidential client:** Acting as counsel to an international bank in Canada with respect to asset recovery involving a cheque-fraud scheme.
- **Confidential client:** Acting as counsel to a Big Four auditing firm in successful motions for interim and interlocutory injunctions.

## Recognition

- Western Graduate Research Scholarship, The University of Western Ontario, School of Graduate and Postdoctoral Studies, 2008

- Western Scholarship of Distinction, The University of Western Ontario, Department of History, 2004

## In the Media

- "Big Suits: *Hughes and 631992 Ontario Inc. v. Liquor Control Board of Ontario et al.*," *Lexpert Magazine*, June 2018
- "Shaw Communications acquires Wind Mobile," *Lexpert*, March 1, 2016
- "Dentons advises Shaw Communications on \$1.6 billion acquisition of WIND Mobile," *Legal Monitor*, January 4, 2016

## Insights

- Ara Basmadjian, "Court of Appeal for Ontario Provides Guidance on Striking Out Pleadings for Breach of Production Obligations," Case Comment on *Falcon Lumber Limited v. 2480375 Ontario Inc. (GN Mouldings and Doors)* (February 2021) 10:1 *Commercial Litigation and Arbitration Review* 1
- Co-author, "Avoiding the empty bag: How we get our clients paid," *Dentons Commercial Litigation Blog*, December 14, 2020
- Ara Basmadjian, "*City of Toronto v. Mohammadi-Kia*: Ontario Superior Court of Justice Summarizes Legal Principles on a Motion for Leave to Issue a Writ of Seizure and Sale," Case Comment, (September 2020) 35:3 *National Creditor/Debtor Review* 24
- Matthew Fleming & Ara Basmadjian, "Securities Class Actions: How to Protect Yourself and Your Cannabis Business," *Cannabis Prospect Magazine* 18, September 2020
- "Brave New World: Ontario Court Endorses Virtual Pre-Certification Motion," Case Comment on *Miller v. FSD Pharma, Inc.* (September 2020) 15:1 *Class Action Defence Quarterly* 8
- Author, ""It's 2020": Ontario Superior Court of Justice orders examination for discovery to proceed by video conference," *Commercial Litigation Blog*, August 4, 2020
- Mark Evans & Ara Basmadjian, "Ontario Court Declines to Impose a Duty on a Bank to Protect Third-Party Victims of a Fraud based on Constructive Knowledge," Case Comment on *1169822 Ontario Limited v The Toronto-Dominion Bank* (August 2018) 37:4 *National Banking Law Review* 33
- Author, "Limitation Periods and Singular Discrete Oppressive Acts," *Commercial Litigation Blog*, July 9, 2020
- Marina E. Sampson & Ara Basmadjian, "Supreme Court of Canada Upholds Trade Barrier in Beer Import Case," Case Comment on *R v Comeau*, *International Law Office*, May 15, 2018
- Norm Emblem & Ara Basmadjian, "The cost of a wrongful injunction", *International Law Office*, December 13, 2016
- Norm Emblem & Ara Basmadjian, "Impecuniosity or Hardship as a Factor in the Award of Costs: Towards a Coherent Framework", 45:4 *The Advocates' Quarterly* 420, July 2016
- Michael D. Schafler, Matthew Fleming & Ara Basmadjian, "Supreme Court considers Limitation Period for Secondary Market Securities Class Actions," Case Comment on *Canadian Imperial Bank of Commerce v Green*, *International Law Office*, February 2, 2016
- Michael D. Schafler & Ara Basmadjian, "Court Applies 'Closest and Most Substantial Connection' Test to Contract Dispute," Case Comment on *Lilydale Cooperative Limited v Meyn Canada Inc.*, *International Law Office*, December 15, 2015
- Michael D. Schafler, Matthew Fleming & Ara Basmadjian, "Supreme Court of Canada considers Limitation Period for Secondary Market Securities Class Actions," Case Comment on *Canadian Imperial Bank of*

- Michael D. Schafler & Ara Basmadjian, "Canada" in *Enforcement of Judgments and Arbitral Awards*, 2d ed (London: Thomson Reuters (Professional) UK Limited, 139, 2015
- Marina E. Sampson & Ara Basmadjian, "Miaskowski (*Litigation guardian of*) v *Persaud*: Discoverability Principle Does Not Apply to Claims for Contribution and Indemnity," Case Comment, 4:3 *Commercial Litigation and Arbitration Review* 42, August 2015
- Michael D. Schafler & Ara Basmadjian, "Ontario Court Addresses Immunity of Diplomatic Bank Accounts from Execution and Attachment," Case Comment on *Canadian Planning and Design Consultants Inc. v Libya*, 34:4 *National Banking Law Review* 49, August 2015
- Matthew Fleming & Ara Basmadjian, "Costs Awards in Class Actions: Equal Treatment for Plaintiffs and Defendants," Case Comment on *Fischer v IG Investments Management Ltd.*, *International Law Office*, June 30, 2015
- "*Acrylic Fabrication Ltd. v Jeffrey*: Early Efforts to Safeguard Rights Required on a Motion for Leave to Issue Writs of Seizure and Sale and Notices of Garnishment" Case Comment, 30:2 *National Creditor/Debtor Review* 18, June 2015
- Frank E.P. Bowman, Christina Porretta & Ara Basmadjian, "Court Restricts Counsel Input in Expert Reports," Case Comment on *Moore v Getahun*, 16:1 *Professional Liability and Discipline Litigation* 962, 2014
- Tiffany Soucy & Ara Basmadjian, "Supreme Court of Canada Delivers Landmark Decision on Contractual Interpretation," Case Comment on *Sattva Capital Corp v Creston Moly Corp*, *International Law Office*, November 4, 2014
- Matthew Fleming & Ara Basmadjian, "Directors' Duties for Executive Compensation Matters Clarified," Case Comment on *Unique Broadband Systems, Inc. (Re)*, 33:7 *Legal Alert* 55, October 2014
- Matthew Fleming & Ara Basmadjian, "Court of Appeal Clarifies Directors' Fiduciary Duties and the Business Judgment Rule for Executive Compensation Matters," Case Comment on *Unique Broadband Systems, Inc. (Re)*, online: Canadian Securities Litigation, August 11, 2014
- Michael D. Schafler, Ara Basmadjian, Jeremy C. Millard & Tiffany Soucy, "Supreme Court of Canada Delivers Landmark Decisions on Summary Judgment Motions," Case Comment on *Hryniak v Mauldin and Bruno Appliance and Furniture, Inc. v Hryniak*, online: Dentons Canada LLP: Insights, February 10, 2014
- Michael D. Schafler & Ara Basmadjian, "Litigation and Enforcement in Canada: Overview," *Dispute Resolution Multi-Jurisdictional Guide*, July 1, 2014, online: Practical Law Company
- Michael D. Schafler & Ara Basmadjian, "When Does a Confidentiality Clause Displace the Exception to Settlement Privilege?" Case Comment on *Union Carbide Canada Inc. v Bombardier Inc.*, *International Law Office*, June 24, 2014
- Matthew Fleming & Ara Basmadjian, "No Fault Responsibility for Environmental Remediation Costs," Case Comment on *Baker v Ministry of the Environment*, 32:12 *Legal Alert* 93, March 2014
- Norm Emblem & Ara Basmadjian, "The 'Indoor Management Rule' Explained," *International Law Office*, April 1, 2014
- "*Davidson Estate v. Martel*: When Will the Court Grant Leave to Issue a Writ of Seizure and Sale or a Notice of Garnishment?" Case Comment, 29:1 *National Creditor/Debtor Review* 11, March 2014
- Mark G. Evans & Ara Basmadjian, "Ontario Securities Commission Willing to Accept 'No Contest' Settlements," March 17, 2014, online: Canadian Securities Litigation
- Matthew Fleming & Ara Basmadjian, "*Green v CIBC*: Court of Appeal Revisits Limitation Period for Secondary Market Securities Class Actions and Limits Common Law Negligent Misrepresentation Class Actions," Case Comment, February 11, 2014, online: Canadian Securities Litigation

- Norm Emblem & Ara Basmdjian, “*Moore v Getahun*: Lawyers are not Permitted to Review and Shape Draft Expert Reports,” Case Comment, *International Law Office*, February 11, 2014
- Matthew Fleming & Ara Basmdjian, “Class Action Trilogy Clarifies Certification Test, Increases Anti-Competitive Exposure,” Case Comment, *International Law Office*, January 7, 2014
- Norm Emblem & Ara Basmdjian, “*Silver v Imax*: The Saga Continues,” Case Comment, *International Law Office*, November 19, 2013
- Michael D. Schafler & Ara Basmdjian, “Enforceable Non-Compete Clauses in Business Sales: The Analytical Framework,” *International Law Office*, October 15, 2013
- Douglas Stewart & Ara Basmdjian, “*AIM Health Group Inc. v 40 Finchgate Limited Partnership*: Court of Appeal Considers Overholding Clause,” Case Comment, 32:2 *Legal Alert* 13, May 2013
- Norm Emblem & Ara Basmdjian, “*Sable Offshore Energy Inc. v Ameron International Corp.*: Pierringer Agreement Settlement Amounts Need Not Be Disclosed,” Case Comment, *International Law Office*, July 16, 2013
- Norm Emblem & Ara Basmdjian, “Quantum of Settlement: Accounting at Trial for Settlement Moneys,” *International Law Office*, March 12, 2013
- Norm Emblem & Ara Basmdjian, “*Silver v IMAX*: Avoiding War on Two Fronts,” Case Comment *International Law Office*, April 30, 2013
- “*Lax Kw’alaams Indian Band v Canada (Attorney General)* : Supreme Court of Canada Denies Aboriginal Right to Commercial Fishing,” Case Comment, December 22, 2011, online: [Blogging for Equality](#)
- Matthew Fleming & Ara Basmdjian, “*Med-Chem Health Care Ltd. v Misir*: Court Endorses Advancement of Former Directors’ Legal Expenses,” Case Comment, 30:4 *Legal Alert* 31, July 2011

## Activities and Affiliations

### Community Involvement and Pro Bono

#### Pro Bono

- Pro Bono Law Ontario Small Claims Court Duty Counsel Project, Toronto, ON

#### Teaching Roles

- Teaching Assistant, “Principles of Legal Research,” University of Ottawa, Faculty of Law, 2010-2011
- Teaching Assistant, “The United States: Colonial Period to the Present,” The University of Western Ontario, Department of History, 2008-2009

### Presentations

- Ara Basmdjian, “Limitations Issues in Creditor/Debtor Relations and Ontario Regulation 73/20,” Dentons Canada LLP: Continuing Professional Development Program, Toronto, ON, 14 October 2020
- Eric Foster, Eric P. Berlin, Ara Basmdjian, Sony Gokhale & Paul A. Kunynetz, “Industry Fireside Chat: What’s Next When You’re in the Weeds,” Dentons Canada LLP: Risk Management Strategies For Your Cannabis Business During COVID-19 and Beyond, Toronto, ON, 29 June, 2020
- Thomas P. O’Leary, Ara Basmdjian & Erica Shadeed, “Key Considerations in *Force Majeure* Clauses and Contractual Obligations,” Dentons Canada LLP: Risk Management Strategies For Your Cannabis Business

During COVID-19 and Beyond, Toronto, ON, 22 June, 2020

- Ara Basmadjian, “Writing in a Law Firm Context,” Dentons Canada LLP: Summer Law Student Program, Toronto, ON, 11 and 26 June 2020
- Ara Basmadjian, “The Emerging Canadian Cannabis Industry,” Dentons Global Financial Markets Regulatory and Disputes Forum, Hong Kong, 11 October 2019
- Norm Emblem & Ara Basmadjian, “The Fundamentals of Pleadings,” Dentons Canada LLP: Continuing Professional Development Program, Toronto, ON, November 19, 2018
- Ara Basmadjian & Joseph Pignatelli, “Assembling an Affidavit of Documents,” Dentons Canada LLP: Articling Student Program, Toronto, ON, October 22, 2018
- Kelli Patel & Ara Basmadjian, “Practice Management,” Dentons Canada LLP: Continuing Professional Development Program, Toronto, ON, September 11, 2018
- Ara Basmadjian, “Commissioning an Affidavit,” Dentons Canada LLP: Articling Student Program, Toronto, ON, May 8, 2018
- Norm Emblem & Ara Basmadjian, “*Quia Timet* Injunctions and the Tort of Unlawful Means”, Dentons Canada LLP: Continuing Professional Development Program, Toronto, ON, November 21, 2016
- Mike Schafler & Ara Basmadjian, “Negotiation and ADR”, Dentons Canada LLP: Articling Student Program, Toronto, ON, September 28, 2016
- Mike Schafler & Ara Basmadjian, “Summary Judgment Motions”, Dentons Canada LLP: Continuing Professional Development Program, Toronto, ON, May 31, 2016
- Tiffany Soucy & Ara Basmadjian, “The Supreme Court of Canada’s Landmark Decision in *Sattva Capital Corp. v Creston Moly Corp.*”, Dentons Canada LLP: Continuing Professional Development Program, Toronto, ON, November 12, 2014
- Matthew Fleming & Ara Basmadjian, “Enforceable Non-Competition Clauses in the Sale of a Business”, Dentons Canada LLP: Continuing Professional Development Program, Toronto, ON, November 20, 2013
- Tiffany Soucy & Ara Basmadjian, Paul Lomic & John O’Toole, “An Overview of the Judicial Review Process”, Ontario Bar Association: Your First Judicial Review, Toronto, ON, May 7, 2013

## Memberships

- Member, The Advocates' Society, Toronto, ON
- Member, Ontario Bar Association, Toronto, ON
- Member, Canadian Bar Association, Ottawa, ON

## Areas of focus

### Practices

- Litigation and Dispute Resolution
- Class Action Defense
- Commercial Litigation
- Fraud, Corruption and Asset Recovery

## Industry sectors

- Financial Institutions
- Professional Services

## Issues and opportunities

- Cannabis in Canada

## Education

- Osgoode Hall Law School, York University, 2021, Certificate in Cannabis Law and Regulation
- University of Ottawa, 2012, JD (cum laude)
- University of Western Ontario, 2009, MA
- University of Western Ontario, 2008, BA (with Distinction)

## Admissions and qualifications

- Ontario, 2013

## Languages

- Armenian
- English