

Douglas B. B. Stewart

Partner



Partner

Toronto

D +1 416 863 4388

douglas.stewart@dentons.com

Overview

Douglas is a member of the Litigation and Dispute Resolution group of Dentons' Toronto office. His practice focuses on commercial and civil litigation with an emphasis on professional liability and insurance related matters. Douglas is a co-leader of Dentons' Insurance Sector.

Douglas represents individuals and companies in a variety of commercial and insurance related disputes, including contractual matters, professional liability, product liability, construction, personal injury, real estate, estates, tax, and copyright. An experienced trial and appellate lawyer, Douglas appears and has been successful before several courts and administrative tribunals including the Ontario Superior Court of Justice, the Ontario Divisional Court, the Ontario Court of Appeal, the Tax Court of Canada, the Federal Court, the Federal Court of Appeal and the Chartered Professional Accountants of Ontario.

Douglas is an active member of Dentons' pro bono committee and is involved in several pro bono projects that the firm participates in. Douglas led a team in a pro bono matter that was the recipient of the 2010 Lexpert Zenith Award in the Political Pro Bono category.

Experience

- ***Deutsche Postbank AG v Kosmayer, 2019 ONSC 6997***: Defence counsel, successfully moved to have proceeding dismissed due to delay.
- ***Deutsche Postbank AG v Kosmayer, 2020 ONCA 410***: Respondent counsel, successfully defended decision to dismiss the claim for delay on appeal.
- ***Polla v. Croatian (Toronto) Credit Union, 2018 ONSC 1641***: Successfully represented the directors and officers of the financial institution in a eight week trial dealing with a multimillion dollar dispute involving, among others, allegations of negligence, corporate governance, and negligent misrepresentations in an offering statement.
- ***John McKellar Charitable Foundation v. Canada (Revenue Agency)***: T-779-05, 2006 FC 23.
- ***Knights of Columbus v. The Queen***: 2008 TCC 307

- **Donato v. The Queen:** 2009 TCC 590 and 2010 TCC 16; *The Queen v. Donato*, 2010 FCA 312.
- **1397868 Ontario Ltd. v. Nordic Gaming Corporation (Fort Erie Race Track):** 2008 67402 (ON SC); 2010 ONCA 101.
- **Heron Bay Investments Ltd. v. The Queen:** 2009 TCC 337 and 2010 FCA 203.
- **GMIC Inc. v. Oladipupo Ola (aka Dipo Ola) and Lawyers Professional Indemnity Company o/a TitlePlus:** 2010 ONSC 1785.
- **Matanah Investments Corp. et al v. Mintz & Partners LLP et al:** 2011 ONSC 7411.
- **Rains v. Molea et al:** 2012 ONSC 4906.
- **Whiting v. The Institute of Chartered Accountants of Ontario:** 2012 ONSC 6720.
- **Prevost Car Inc. v. Her Majesty the Queen:** 2014 FCA 86
- **In the Estate of Irene Gotlibowicz:** Court File No. 02-80/11, September 10, 2014 (unreported).
- **Toronto Zoo Foundation:** Negotiating the wind-up of the Foundation and the disposition of its assets in concert with a successful application for approval to the Ontario Superior Court.
- **Accountants:** Representing at all stages of professional conduct proceedings including hearings before the Professional Conduct, Discipline and Appeal Committees of the Chartered Professional Accountants of Ontario.
- **Accounting firm:** Representing in a proceeding before the Canadian Public Accountability Board regarding requirements imposed on the firm's audit work. This was the first proceeding of its kind before CPAB.
- **Accountants, solicitors (particularly in wills and estates related disputes), surveyors and engineers:** Representing in connection with professional liability actions and pre-litigation disputes.
- **Confidential clients:** Representing individuals and solicitors in applications to the Superior Court to rectify wills and other instruments.
- **Confidential clients:** Representing and advising clients in product liability matters including an ink manufacturer in a negligence action respecting its ink products; an electrical services provider in a negligence action concerning installation of duct work for a construction project; a trucking company in a personal injury and property loss action concerning alleged manufacturer's negligence resulting in fire loss; a bakery in a dispute with its data services provider.
- **National automotive client:** Advising on a complex dispute with its insurer concerning coverage for its road hazard warranty program in which a successful resolution was negotiated.
- **Insurance companies:** Acting as appointed Defence Counsel in connection with their Insured individuals and companies in various manners of proceedings including personal injury and product liability actions, fire loss actions and tavern liability actions.
- **Auditors:** Advising in connection with investigations and proceedings launched by the United States Securities and Exchange Commission.
- **Landlords and tenants:** Representing and advising on commercial lease disputes.
- **Trust companies:** Advising those appointed as Estate Trustees during litigation.
- **US taxpayer:** Representing in an application challenging a request to the Canada Revenue Agency for information under the US-Canada tax treaty.

Recognition

- Named a "Canadian Corporate Lawyer to Watch" by the *Lexpert Guide to the Leading US/Canada Cross-Border Litigation Lawyers in Canada* (2016)

In the Media

- Quoted in "Standing Behind the Good", *Lexpert*, May 2017

Insights

- Co-author, "Court of Appeal weighs in on scope of physical damage in business loss claims," *The Lawyer's Daily*, October 4, 2021
- Co-author, "Court of Appeal clarifies the scope of physical damage in business loss claims," *Canada Insurance Law Review*, September 10, 2021
- Co-author, "Guidance on COVID-19 Business Interruption Claims by the US Court of Appeal," *Canada Insurance Law Review*, July 21, 2021
- Co-author, "Heidari v Naghshbandi: Ontario Court of Appeal Clarifies When Security for Costs of an Appeal is Appropriate," *Dentons Commercial Litigation Blog*, April 13, 2021
- Co-author, "Ontario Court of Appeal upholds dismissal for delay recognizing importance of efficient adjudication of fraud claims," *Dentons Commercial Litigation Blog*, September 24, 2020
- Co-author, "Part 1: Business interruption coverage: What is physical damage under a Canadian commercial property policy?" *Dentons Insights*, April 8, 2020
- Co-author, "COVID-19 event cancellation: Is there coverage?," *Dentons Insights*, March 24, 2020.
- Author, "Bad faith does not trump jurisdiction in SABs disputes," *Canada Insurance Law Review*, December 10, 2019.
- "Ontario's loss transfer scheme and extraterritorial application", *Canada Insurance Law Review*, May 24, 2019
- "Court dismisses statutory misrepresentation claim against credit union board in landmark decision", *Dentons Insights*, March 29, 2019
- "Ontario court hits the brakes on duties owed to intoxicated plaintiffs", *Dentons Insights*, November 12, 2018
- "Practical primer on the dreaded world of "bad faith" in the insurance industry", *Dentons Insights*, September 11, 2018
- "*Usanovic v. Penncorp Life Insurance Co.*," *Dentons Insights*, July 5, 2018
- "Benefits of a well crafted release: *Biancaniello v. DMCT LLP*," *Dentons Insights*, May 16, 2018
- "Defining parameters: Insurers duty to defend v. duty to indemnify," *Dentons Insights*, April 23, 2018
- "Supreme Court narrows scope of CRA's power to force disclosure," *International Law Office*, October 4, 2016
- "Hague Convention – service of documents abroad," *International Law Office*, July 28, 2015
- Case Comment: *1043 Bloor Inc. v. 1714104 Ontario Inc.* (2013 ONCA), "Prescriptive easements and the doctrine of lost modern grant," October 2013
- "Court of Appeal Considers Overholding Clause," *Legal Alert*, May 2013
- "Tax Court of Canada issues a comprehensive ruling on privilege issues and the appropriate exercise of

remedies to address deficient lists of documents," *Canadian Tax Litigation*, May 21, 2013

- "Reducing the expense of multi-party litigation through partial settlement agreements," *International Law Office* (Online: October 30, 2012)
- "Pitfalls in Enforcement of Indemnities," *Legal Alert*, July 2012
- "Onus in Tax Litigation: Federal Court of Appeal Decision in *House v. Her Majesty the Queen*," December 2011
- "Abandoned Property Poses Problems for Commercial Landlord," *Legal Alert*, February 2011
- "Jurisdictional Issues Affecting Claims Against the Federal Government," *International Law Office*, October 2009
- "Privilege Claims Under Section 232 of the *Income Tax Act*," *Tax Litigation Journal*, Vol. XIV, No. 4 (2007)
- ""Pitfalls in Enforcement of Indemnities", *Legal Alert*, July 2012," July 1, 2012

Activities and Affiliations

- Member, Canadian Bar Association
- Member, Ontario Bar Association
- Member, Advocates Society
- Member, Toronto Lawyers Association

Community Involvement and Pro Bono

- Former Director and current Member of the Advisory Committee of the Barbados Ball Canada Aid, a not-for-profit organization.
- Active volunteer with Pro Bono Law Ontario's Child Advocacy Project
- Coordinator of Dentons' participation in Pro Bono Law Ontario's Small Claims Duty Counsel Project
- Volunteer at Pro Bono Law Ontario's Law Help Duty Desk at the Superior Court of Justice
- Volunteer with Pro Bono Law Ontario's Amicus Duty Counsel project at the Ontario Court of Appeal
- Participant on Team Dentons MoBro for Movember. Movember is an annual event for raising funds and awareness for men's health, specifically prostate cancer.
- Active volunteer with local Public School Committee opposing boundary change

Current Firm Activities

- Co-lead for Dentons' Regional and Global Insurance Sectors
- Active participant on Dentons' Pro Bono Committee and supervisor of the firm's participation in Pro Bono Law Ontario's Small Claims Duty Counsel Project
- Active participant in Dentons' Student recruitment and mentoring programs
- Active participant in Dentons' Diversity Committee

Presentations

- Program Chair, "The Civil Litigator's Survival Guide to Evidence", April 15, 2019
- Moderator, "When Can a Landlord Withhold Consent?", ICSC Canadian Shopping Centre Law Conference, March 28, 2019
- Moderator, "Strategic Thinking: The Whens and Whys of Injunctions", OBA | Professional Development, May 25, 2017
- Moderator, "Entrepreneurship and Commercial Arbitration", ICC YAF: Caribbean Series (Barbados), September 2, 2016
- Moderator, "Preventing and Resolving Disputes: Current Issues and Key Considerations for Users of Mediation and Arbitration in Canada and the USA", CPR Regional Meeting Toronto, June 21, 2016

Areas of focus

Practices

- Commercial Litigation
- Professional Liability Litigation
- Real Estate Litigation and Dispute Resolution
- Tax Litigation and Dispute Resolution
- Trust and Estate Litigation
- Tax in Canada

Industry sectors

- Accounting Firms
- Insurance Litigation and Arbitration
- Law Firms
- Real Estate

Education

- Queen's University, 2003, LLB
- University of Western Ontario, 1997, BA (Hons)

Admissions and qualifications

- Ontario, 2004

Languages

- English