

Marina E. Sampson

Partner



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Overview

Marina is a commercial litigator and a partner in the firm's Litigation and Alternative Dispute Resolution practice group. In August 2020, Marina was named one of Canada's Top 50 Women in Litigation by *Benchmark Litigation*. She is an experienced class action lawyer.

Marina has significant experience with injunctions, including *Anton Piller* orders and other extraordinary remedies. She has appeared as counsel before the Supreme Court of British Columbia, the Ontario Superior Court of Justice, the Ontario Divisional Court and the Ontario Court of Appeal and acts as counsel in commercial arbitrations. Marina's corporate commercial practice has a particular focus on class actions, real estate litigation, contamination disputes, shareholder disputes as well as product liability litigation.

In 2017, Marina obtained the Q. Arb. designation.

Experience

- **Confidential client:** Lead counsel and successfully argued a stay application in a competition class action and obtained a stay of all competition claims in favour of arbitration. (March 2020, Supreme Court of British Columbia).
- **Blockades and injunctions:** Lead counsel and successfully argued and obtained numerous interim and interlocutory injunctions in respect of unlawful blockades throughout the Province of Ontario, including the following:

Canadian National Railway Company v. John Doe, 2020 ONSC 3033 (CanLII) <http://canlii.ca/t/j7v7l>;

Canadian National Railway v. John Doe, 2020 CarswellOnt 6677, 218 ACWS (3d) 132;

Canadian National Railway v. John Doe, 2020 CarswellOnt 2403, 316 ACWS (3d) 2;

Canadian National Railway Company v. Doe, 2020 ONSC 4152 (CanLII),

- **Confidential client:** Lead counsel and successfully argued a sequencing application in a competition class action in order to seek a stay of the competition claims in favour of arbitration. (August 2019, Supreme Court of British Columbia).
- **Strongco Corporation:** Advising Strongco Corporation in January 2020 on litigation relating to their private

transaction, by way of plan of arrangement. Under the terms of the arrangement agreement, Nors, S.A., through a wholly-owned subsidiary, acquired all of the issued and outstanding common shares of Strongco for an aggregate transaction value of approximately CAD\$193 million.

- **Sleeman Breweries Ltd.:** [*Hughes v. Liquor Control Board of Ontario*, 2018 ONSC 1723 (CanLII)] Lead counsel and successfully defended Sleeman Breweries Ltd. in a \$1.4 billion 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.
- **Canadian National Railway Company:** [CNR v. *Weyerhaeuser*, 2018 ONSC 2056 (CanLII)] Lead counsel in a summary judgment motion involving statutory interpretation of the *Public Lands Act* and awarded costs on the summary judgment motion [CNR v. *Weyerhaeuser*, 2018 ONSC 4853 (CanLII)].
- **Canadian National Railway Company:** Successfully representing CNR on an application to void the sale of land under the *Environmental Protection Act* [*Crosslink v. CN Railway*, 2013 ONSC 6540 (CanLII)], and successfully argued the appeal where the decision was upheld by the Ontario Court of Appeal [*Crosslink Bridge Corp. v. Canadian National Railway Company*, 2014 ONCA 247 (CanLII)].
- **Canadian National Railway Company:** Acting in connection with interlocutory injunction with respect to the termination of commercial license agreements [*CBS Canada Holdings Co. v. All Vision Canada Company et al.*, 2012 ONSC 3679].
- **Versacold Logistics Canada Inc.:** Lead counsel and successfully represented Versacold on a motion to dismiss on the basis that the applicable limitation period had expired [*Tender Choice Foods Inc. v. Versacold Logistics Canada Inc.*, 2013 ONSC 80 (S.C.J.)] and successfully argued the appeal where the decision was upheld by the Court of Appeal. [*Tender Choice Foods Inc. v. Versacold Logistics Canada Inc.*, 2013 ONCA 474].
- **Boutique private equity firm:** Advising in a shareholder dispute involving the termination for cause of the CEO and successfully obtaining an arbitral award confirming that the CEO had been properly terminated for cause and enforcing the shareholders' put rights. Our client received an award representing the full subscription price of shares paid by their client shareholders. [see *Pantziris v. Cobalt Capital CA Textile Investments, L.P.*, 2012 ONSC 2716].
- **Crown corporation:** Acting in relation to the construction and commissioning of three separate co-generation facilities; acting with respect to a continuing obligation agreement and the construction of an Ontario Track and Field Association (OTFA) designed athletic track; acting in various landlord/tenant and related lease disputes.
- **The Governing Council of The Salvation Army:** Successfully obtaining and executing an Anton Piller order as well as judgment for fraud arising from multimillion dollar employee defalcation, and related enforcement efforts.
- **Author and publisher of the Harry Potter novels and Pottermore website in Canada:** Successfully representing the author and publisher in connection with all Canadian copyright protection issues and embargo enforcement rights and remedies, including winning a number of injunctions to protect the copyright in and pre-release date confidentiality of the Harry Potter novels.
- **Canada Post Corporation:** Successfully represented Canada Post in the Superior Court and at the Court of Appeal in respect of its exclusive privilege to deliver mail within Canada and successfully obtained related injunctive relief [*Canada Post Corp. v. G3 Worldwide (Canada) Inc.* 2007 CarswellOnt 2872, 2007 ONCA 348, 85 O.R. (3d) 241, 224 O.A.C. 206, 282 D.L.R. (4th) 682, affirming *Canada Post Corp. v. G3 Worldwide (Canada) Inc.* (2006), 2006 CarswellOnt 3121 (Ont. S.C.J.); and affirming *Canada Post Corp. v. G3 Worldwide (Canada) Inc.* (2005), 2005 CarswellOnt 7258, 261 D.L.R. (4th) 244 (Ont. S.C.J.)].
- **Manufacturer of airplane commutators:** Successfully represented the manufacturer in a successful application for an injunction restraining a former consultant from conducting a competing business, including issues of copying of industrial design and processes, all in breach of the consultant's fiduciary duty.

- **Pulp and paper company:** Acting as arbitration counsel in a dispute concerning the post-closing cost of installing environmental controls and remediation work totaling more than CA\$55 million.
- **Pulp and paper company:** Acting with respect to a dispute involving forest licenses issued under the *Crown Forest Sustainability Act* [*Keewatin v. Ontario (Minister of Natural Resources)* 2011 CarswellOnt 8900, 2011 ONSC 4801].
- **Taiwanese computer multinational:** Acting in a multimillion dollar fraud at a subsidiary corporation.

Recognition

First recognized in 2017, Marina has been commended for her extensive knowledge and experience in a variety of respected publications, including:

- *The Canadian Legal Lexpert Directory: Class Actions*
- *Benchmark Litigation: Canada – Litigation Star: Product Liability; Commercial; Class action (2020, 2021).*

Honors and Awards

- Named One of Canada's Top 50 Women in Litigation by *Benchmark Litigation*, August 2020
- Recognized as a finalist for "Lexpert Rising Stars: Leading Lawyers Under 40", 2017
- Completed the Toronto Commercial Arbitration Society's Gold Standard Course in Commercial Arbitration, 2017
- New Brunswick Trial Lawyers' Association Shield, 2002
- Competed in the Sopinka Cup, trial advocacy moot court competition, 2002
- Competed in the Philip C. Jessup International Law Moot Court Competition, 2001
- Smith Lyons Prize in Advocacy, 2000

In the Media

- "How the pandemic has changed litigation for women: Major challenges but positives as well", *Canadian Lawyer*, October 2020
- "Trudeau calls for 'dialogue' as blockade cripples rail network, while Scheer says clear out the protesters" CBC online, February 14, 2020
- "Big Suits: *Hughes and 631992 Ontario Inc. v. Liquor Control Board of Ontario et al.*," *Lexpert Magazine*, June 2018

Insights

- Co-author, "Be careful what you admit: Ontario Court of Appeal rules on Requests to Admit," *Dentons Commercial Litigation Blog*, April 1, 2021
- Co-author, "Three major trends in cross-border class actions," *Lexpert*, February 24, 2021
- Co-author, "Duggan v Durham: Ontario Court of Appeal concludes 10-year saga on availability of trial bifurcation," *Dentons Commercial Litigation Blog*, January 20, 2021
- Co-author, "No compensable harm, no certification: The Ontario Superior Court decision of Maginnis and Magnaye v. FCA Canada et al.," *Dentons Commercial Litigation Blog*, December 17, 2020

- Co-author, "Force Majeure: An overview of common law and civil law approaches, a brief look at recent domestic and US case law and where we are headed," *Dentons Insights*, August 18, 2020
- Co-author, "Significant changes to Ontario's class action landscape ," *The Lawyer's Daily* , August 2020
- Co-author, "Goodbye Waiver of Tort, Hello Motions to Strike: Key Takeaways from *Atlantic Lottery Corp. Inc. v. Babstock*," *Commercial Litigation Blog*, August 17, 2020
- Co-author, "*Heller v Uber: The Supreme Court finds arbitration clause unconscionable and establishes new test for determining when to stay litigation in favour of arbitration*," *Dentons Insights*, July 3, 2020
- Co-author, "Higher Education Class Action Litigation Trends," *Commercial Litigation Blog*, June 3, 2020
- Co-author, "Long-term care facilities class action trends," *Commercial Litigation Blog*, June 2, 2020
- Co-author, "Class action trends – May 2020," *Commercial Litigation Blog*, June 2, 2020
- Co-author, " Urgent motions in the COVID-19 framework," *Commercial Litigation Blog*, May 8, 2020
- Co-author, "The *Godfrey* Decision: The Supreme Court of Canada weighs in on umbrellas, discoverability, complete codes, and certification methodologies," *Dentons Insights*, October 10, 2019
- Co-author, "*Wellman v. TELUS Communications Inc.*: The Supreme Court of Canada Reinforces Arbitral Party Autonomy in the Context of Class Proceedings," *Canadian Arbitration and Mediation Journal*, Summer/Fall 2019
- Marina Sampson and Susan Fridlyand, "Jurisdictional challenges to arbitration awards: raise them before they're gone ," *International Law Office*, May 21, 2019
- Co-author, "Time may not be of the essence when considering specific performance," *International Law Office*, April 23, 2019
- Marina E. Sampson & Ara Basmadjian, "Cheers to interprovincial trade: first application of Supreme Court of Canada's decision in *R v Comeau*," Case Comment on *R v Comeau*, *International Law Office*, October 23, 2018
- 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
- Marina Sampson and Aoife Quinn, "Elusive stigma damages in contamination cases," *Legal Alert*, Vol.36 No.12 p.93, March 2018
- Marina Sampson and Aoife Quinn, "Why Continuing Nuisance Matters," *Legal Alert*, Vol.36 No.7 p.53, October 2017
- Co-author, "Appeal court upholds exemptions under ESA," *Legal Alert*, April 2017
- Marina Sampson and Andy McDonnell, "Appeal Court denies stay of regulation under *Pesticide Act*," *Legal Alert*, October 2016
- Co-author, "Advisors and Lenders may be Liable for Environmental Orders," *Legal Alert*, Vol. 34 no.9, December 2015
- Marina E. Sampson and Ara Basmadjian, "*Miaskowski (Litigation guardian of) v Persaud*: Discoverability Principle Does Not Apply to Claims for Contribution and Indemnity," Case Comment (August 2015) 4:3 *Commercial Litigation and Arbitration Review* 42
- "Ontario adopts cap-and-trade system," *Legal Alert*, June 2015
- "No fault liability a challenge of remediation," *Legal Alert*, January 2015
- "Appeal court finds purchaser received director's order," *Legal Alert*, September 2014

- “ERT overturns wind farm's REA,” *Legal Alert*, June 2014
- “Innocent Party Must Remediate Property,” *Legal Alert*, December 2013
- “Supreme Court Denies Leave to Appeal in Overtime Class Action,” *International Law Office*, May 28, 2013
- “Court Revisits Duty to Consult Over Mineral Rights,” *Legal Alert*, Volume 32, No. 1, April 2013
- “No Class Action This Time: Federal Court of Appeal Upholds Arbitration Agreement,” *International Law Office*, April 9, 2013
- “Court Considers Fairness Versus Fault,” *Legal Alert*, Volume 31, No. 7, October 2012
- “Ontario's New Environmental Approvals Regime,” *Focus on Environmental Law*, May 2012
- “Ontario’s New Environmental Approvals Regime ,” *Legal Alert*, vol.30, no.12, March 2012
- “Ontario Court of Appeal: Regulated Utilities Must Balance Rights of Shareholders and Ratepayers,” *Focus on Energy*, August 2010
- *Focus on Alternative Dispute Resolution - August 2010*
- “Ontario Court of Appeal: Regulated utilities must balance rights of shareholders and ratepayers,” *International Law Office*, July 2010
- “Stay of Arbitration: One Strike and You're Out?,” *Possibilities - CBA National Alternative Dispute Resolution Section Newsletter*, June 2010
- “Know Your Limits: Forum Selection Clauses Do Not Govern All Disputes,” *International Law Office*, November 2009
- Co-authored with David McCutcheon “Stay of Arbitration: One Strike and You're Out?,” *Ontario Bar Association Newsletter*, ADR section, Volume 18, No. 2, March 2010
- Co-authored with David McCutcheon “How to Avoid Undue Expenses in Arbitration,” *The Lawyers Weekly*, September 2009
- Co-authored with Sven Hombach and Arden MacLean “New Ontario Environmental Incentives for Energy Efficiency and Renewable Energy,” *International Law Office*, October 2008

Activities and Affiliations

- Executive Member, Arbitration and Mediation Practice Group, The Advocates’ Society, 2020-2022
- Member, Canadian Bar Association
- Member, Advocates’ Society
- Member, Ontario Expropriation Association
- Member, Toronto Commercial Arbitration Society

Community Involvement and Pro Bono

Community Involvement

- Director, Board of Directors, Beaches Community Soccer League, present
- Volunteer Soccer Coach, Beaches Community Soccer, 2012–present

- Mentor, the LAWS (Law in Action Within Schools) program, 2014–present
- Member, Board of Directors and Executive for the Canadian Working Group on HIV and Rehabilitation (CWGHR), 2007–2015
- Co-Chair, United Way Campaign at FMC, 2009

Firm Involvement

- Member, Dentons' Nominating Committee, 2015–present
- Development Partner, Litigation Department, 2014–2018
- Co-Chair, Diversity and Inclusion Committee, 2013–2018
- Member, Dentons' Student Committee, 2010–2015

Presentations

- Panelist, “Becoming a Trusted Advisor”, Americas BD Panel Presentation, September 19, 2017
- Moderator, "Mediation 101: Fundamentals of Mediation", Civil Litigation Practice and Procedure Brown Bag Lunch Series, Ontario Bar Association, May 16, 2012

Areas of focus

Practices

- Alternative Dispute Resolution (ADR)
- Arbitration
- Commercial Litigation
- Construction and Engineering Disputes
- Energy Advocacy
- Energy Litigation
- Environment and Natural Resources
- Environmental Litigation
- Fraud, Corruption and Asset Recovery
- Real Estate
- Real Estate Litigation and Dispute Resolution
- Class Action Defense

Industry sectors

- Construction
- Rail

Education

- University of New Brunswick, 2002, LLB
- Mount Allison University, 1999, B.Sc. (Biology, Chemistry, French)

Admissions and qualifications

- Ontario, 2003

Languages

- English