

Mark G. Evans

Partner



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Overview

Mark is the Practice Lead for the Litigation and Dispute Resolution Group of Dentons' Toronto office and the Co-Global Lead for Dentons Fraud and Asset Recovery Group. Mark is a leading banking and commercial litigation lawyer and acts as lead litigation counsel for a number of Canadian and multinational clients on significant class action briefs.

Experience

- **Confidential client:** Acting as lead counsel to multi-national financial institution in proposed class proceedings related to allegations of manipulation in global foreign exchange markets.
- **Confidential client:** Acting as lead counsel to multi-national financial institution in proposed class proceedings related to allegations of manipulation in global gold markets.
- **Confidential client:** Acting as lead counsel to multi-national financial institution in proposed class proceedings related to allegations of manipulation in global silver markets.
- **Confidential clients:** Acting as lead counsel to financial institution in proposed class proceedings brought in the Federal Court of Canada related to allegations of manipulation in the market for SSA Bonds.
- **Leading global paint formulation company:** Acting as co-counsel (R. Heintzman) to Canadian privately-held entity in respect of dispute over \$250 million in escrowed funds.
- **Confidential client:** Advising a sovereign state in respect of civil proceedings brought in Ontario and engaging issues of corruption, asset recovery and sovereign state immunity.
- **Confidential client:** Acting as lead counsel to bank in successfully defeating claim on summary judgment basis. Claim related to allegations that lender owed duties to third party in respect of the operation of a commercial account.
- **Confidential client:** Advising a foreign bank in multi-million Euro asset recovery matter.
- **Canadian Chartered Bank:** Advising a Canadian chartered bank in respect of AML investigation.

- **Confidential client:** Acting for multi-national banking institution in locating funds, obtaining freeze orders and ultimately recovering \$1.8 million in fraud proceeds located domestically and in Africa (100% recovery).
- **Confidential client:** Advising in connection with Trinidad proceedings alleging procurement fraud in airport construction.
- **Confidential client:** Acting for national investment dealer in respect of a significant anti-money laundering investigation and related regulatory proceedings
- **Confidential client:** Advising in connection with a charitable organization in CDN\$1 million employee fraud/asset recovery matter (100% recovery).
- **Canadian Chartered Bank:** Advising in connection with an asset recovery involving cheque – kiting scheme.
- **Confidential client:** Acting for securities dealer in obtaining summary dismissal of CDN\$10 million wrongful dismissal action.
- **Confidential clients:** Advising in connection with OSC emerging markets disclosure reviews.
- **Confidential client:** Acting as counsel to US based issuer relating to Canadian listing matters.
- ***Ainslie v. CV Technologies Inc. et al.*, 2009 CanLII 7165 (ONSC), 2008 CanLII 63217 (ONSC) and *Driedger v. CV Technologies Inc. et al.* (Alta. Ct. File No. 070107508):** Being engaged by the auditors of CV Technologies (the makers of Cold-FX) to defend that audit firm in a \$100 million class action lawsuit brought on behalf of the company's shareholders. This lawsuit represents one of the first test cases for secondary market disclosure legislation recently implemented in both Alberta and Ontario. The matter was ranked among the top ten suits of 2009 by *LEXPERT*.
- **Royal Bank of Canada and RBC Dominion Securities:** Advising in connection with the collapse of the asset backed commercial paper market.
- **Teranet Inc.:** Advising in connection with the successful multi-million dollar dissenting shareholder dispute. *Teranet Inc. v. Canarab Marketing Corp.* (2008), 54 B.L.R. (4th) 138 (Ont. S.C.J. - Comm. List).
- **Jones Heward Investment:** Advising in connection with an investment portfolio management case (2878852 *Canada Inc. v. Jones Heward Investment Counsel*, 2007 CarswellOnt 90 (C.A.)).
- **Confidential client:** Acting for a North American mining concern in obtaining prospectus filing exemptions from the OSC.
- Advising in connection with a CDN\$10 million E+O claim concerning captive insurance issues.
- **Confidential client:** Providing ongoing advice as co-Canadian counsel to a multinational consultancy and insurance firm.
- **Confidential clients:** Acting successfully for a large insurance organization in respect of concurrent arbitral and Court of Appeal proceedings regarding termination rights under an agency agreement.
- **Confidential client:** Acting as counsel to Canadian mining concern regarding a dispute over security terms.
- **Confidential client:** Acting as counsel to a multi-national financial institution in connection with a significant securities regulatory investigation in Ontario.
- **Confidential client:** Advising in connection with *Canadian Imperial Bank of Commerce et al. v. Deloitte & Touche et al.*, Court File No. 00 CV 201162CP: Action by former lenders of Philip Services Corp. for alleged audit negligence
- **Confidential client:** Acting for the auditor of a publicly traded company in context of a shareholder action based on prospectus misrepresentation
- **Confidential client:** Advising as Litigation counsel in numerous Plan of Arrangement proceedings brought

before the Ontario Superior Court of Justice.

- **Confidential clients:** Advising Canadian investment dealer in recovery of damages related to fraudulent stock manipulation scheme.
- **Confidential client:** Acting for a major forest products company in a domestic arbitration with respect to a share valuation dispute.

Recognition

- Recognized in *The Best Lawyers in Canada* as one of Canada's leading lawyers in Corporate and Commercial Litigation (2016–2020)
- Recognized by *Who's Who Legal: Canada* as one of the world's leading lawyers in the area of Asset Recovery Law (2017–2019)
- Recognized in the *International Who's Who of Business Lawyers* in the area of Asset Recovery Law (2013)
- Recognized in the *Lexpert Guide to the Leading US/Canada Cross-Border Litigation Lawyers in Canada* as a "Litigation Lawyer to Watch" (2012)

Honors and Awards

- ILO Client Choice Award - Exclusive Winner of the Litigation Category for Canada (2012)
- *Lexpert's "Rising Stars: Leading Lawyers Under 40" Finalist and "Litigator to Watch"* (2011)

In the Media

- Profiled in "McMillan, FMC partners snag Client Choice Awards", Article by Kendyl Sebesta, *Canadian Lawyer*, February 24, 2012
- Profiled in "FMC Law partners win ILO Client Choice Awards", Article by Mitch Kowalski, *National Post*, February 23, 2012
- Quoted in the article "Litigation No Longer Just About Advocacy", *Law Times*, March 2011
- Quoted in the article "Retooling Litigation", published by *LEXPERT* magazine, March 2010
- Cover Interview, "Savvy Advice Averts Lawsuits", *Law Times*, August 2009, Vol. 20, No. 25

Insights

- 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
- Co-author, "Banking fraud: The power of well-drafted account opening documents in the age of e-mail", *Dentons Insights*, May 24, 2017
- "The 2010 Guide to Litigation, Arbitration and Dispute Resolution", *Executive View Media Limited*, March 2010
- Current Issues in Securities Regulation (Presentation)
- "Court Clarifies the Requirement of 'Damage' and its Impact on Limitation Periods", *International Law Office*, April 2012

- "Court Confirms IIROC's Jurisdiction Over Investment Dealer Members", *International Law Office*, March 2012
- "Liability for Secondary Market Misrepresentation in Canada", *International Law Office*, April 2011
- "Still Between a Rock and a Hard Place - An Update on *Kovacs v. TD*", *ILO Online Magazine*, January 2011
- "When Shoppers Aren't Merry - Strategies for the Holiday Season", December 2010
- "*Kovacs v. TD Bank Financial Group* - Caught Between a Rock and a Hard Place", *ILO Online Magazine*, July 2010
- "The Gatekeeper Requirement and Secondary Market Liability Class Actions in Canada", *Digital Guide to Litigation, Arbitration and Dispute Resolution*, 2010
- "Post-membership Discipline - A Price of Admission", *Focus on Securities Litigation*, October 2009
- "Poison Pills Revisited: The OSC decision in Neo Material Technologies Inc.", *Focus on Securities Litigation*, September 2009
- "Offshore Accounts: Investors Can't Have Their Cake and Eat it Too", *Focus on Securities Litigation*, December 2003
- Contributing-author, "Asset Tracing and Recovery - Part II Country Specific Possibilities for Asset Tracing and Recovery (Canada)", *Erich Schmidt Verlag GMBTL & Co.*, Berlin, 2009
- Co-author, "Court Comments on Scope of Officers' and Directors' Liability", *International Law Office*, February 2006
- Co-author, "An Overview of Defending Broker Liability Actions", Canadian Institute, *4th Annual Forum on Securities Litigation*, November 2004
- "Class Action Litigation in the Securities Context", *CLE Conference*, March 2002

Activities and Affiliations

- Canadian Bar Association
- Advocates' Society, Securities Litigation Section
- Toronto Lawyers' Association

Community Involvement and Pro Bono

- Mentor, TRIEC
- Mentor, Coach, Lawrence Park Association (Soccer)
- Active volunteer in *Pro Bono* Duty Counsel Program through the Advocates' Society

Teaching Roles

- Chair, FMC Professional Development Program (Litigation)
- "Persuasive Writing for Advocates" (Toronto, 2011)
- Instructor, Expert Witness Workshop (Toronto, 2008 and 2011)

Presentations

- "What you need to know about employment class actions"— Employment and Labour Seminar – May 31,

2019

- "Roundup of the top cases " First Annual Dentons Data Summit: Navigating today's digital landscape – June 6, 2019
- "Effective Tactics to Stop or Resolve Claims Early in Today's Class Actions Environment: Defence Panel Discussion", The Canadian Institute's 13th Annual National Forum on Class Actions Litigation, Toronto, September 2012
- "Hear From Both Sides of the Enforcement Divide!", current issues in Securities Regulation, Second Annual Securities Symposium, Toronto, September 2012
- "Choosing or Challenging An Appropriate Representative Plaintiff", Canadian Institute Class Actions Litigation Bootcamp, Toronto, April 2012
- The Aging Investor - A Case Study, Toronto, May 2011
- "The Money Went Where?", Cross Border and International Fraud and Asset Recovery", Chicago, October 2010
- "Investing in Compliance – When the Regulators Come Knocking Will You Be Ready?", A seminar relating to OSC and IIROC compliance matters co-presented by Dentons and Deloitte & Touche LLP, Toronto, May 2009
- "Aging Clients – Risks and Opportunities for Investment Dealers", Toronto, 2008

Areas of focus

Practices

- Alternative Dispute Resolution (ADR)
- Class Action Defense
- Commercial Litigation
- Financial Markets Litigation and Regulation
- Fraud, Corruption and Asset Recovery
- Litigation and Dispute Resolution

Industry sectors

- Accounting Firms
- Commercial Banks
- Financial Institutions
- Investment Banks and Broker Dealers
- Mining
- Mining Litigation and Dispute Resolution
- Professional Services

Education

- Dalhousie University, 1999, LLB
- Memorial University, 1994, BComm (Co-Op)
- Canadian Securities Course, 1994

Admissions and qualifications

- Ontario, 2001