



Dena N. Varah

DENA N. VARAH is a partner at Lenczner Slaght.

Dena's practice has broad scope, encompassing corporate and commercial litigation, shareholder disputes and oppression claims, contract issues, professional negligence cases, employment/wrongful dismissal matters and administrative and insurance law. She has often appeared in the Ontario Superior Court of Justice and the Ontario Court of Appeal, as well as before administrative tribunals and in private arbitrations. She clerked for the judges of the Court of Appeal before joining Lenczner Slaght.

Dena has taught in continuing legal education programs presented by the Law Society of Ontario, The Advocates' Society and the Ontario Bar Association. She is also co-chair at the University of Toronto Academic Tribunal.

Education

University of Toronto (2003) JD
(Honours Standing)
McGill University BA (Honours -
History)

Bar Admissions

Ontario (2004)

Practice Areas

Appeals
Commercial Litigation
Employment
Injunctions
Insurance
Product Liability
Professional Liability and Regulation
Public Law

Contact

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RECOGNITION

- **Benchmark Canada (2018-2024)**
Litigation Star - Class Action, Commercial, Insurance, Securities
- **Benchmark Litigation (2017-2019)**
Under 40 Hotlist
- **Best Lawyers in Canada (2014-2024)**
Corporate & Commercial Litigation, Health Care Law, Medical Negligence
- **Canadian Legal Lexpert® Directory (2017-2024)**
Litigation - Corporate Commercial, Medical Negligence, Professional Liability
- **Chambers Canada (2023-2024)**
Healthcare: Contentious (Nationwide – Canada)
- **Gale Cup Moot**
Winner
- **Lexpert Special Edition: Canada's Leading Litigation Lawyers (2023)**
- **McCarthy Tetrault National Award for Academic Excellence**

SELECT CASES

- **Phyxiat Courier v Liquor Control Board of Ontario and Trillium Supply Chain Inc** – Counsel to a defendant concerning a dispute alleging negligence in supply chain management.
- **WSIB Investments (Infrastructure) Pooled Fund Trust et al v Plenary Group (Canada) Ltd. et al** – Trial counsel to several public sector pension funds in a breach of fiduciary duty and breach of contract claim with a manager of public infrastructure projects.
- **Burr v Tecumseh** – Counsel to the successful Defendant, Tecumseh, at trial for manufacturer of electric motors in product liability action.
- **Carras v Altus Group Limited** – Counsel to the Respondent real estate

information software company in successfully opposing a former executive's application for breach of contract in respect of the exercise of disputed stock options.

- **Re Investment Management Corporation of Ontario** – Trial counsel to IMCO in a breach of contract claim with manager of public infrastructure projects.
- **Orefinders Resources Inc. v Mistango River Resources Inc.** – Counsel to the successful minority dissident corporate shareholder in various court applications involving a contested proxy battle.
- **McCabe v Roman Catholic Episcopal Corporation** – Counsel to the successful respondent before the Ontario Court of Appeal.
- **Schives v Stewart Title Guaranty Company** – Counsel to the defendant title insurer in a successful summary judgment motion arising from the applicability of the exclusion provisions of the insurance policy.
- **York University v Markicevic** – Counsel to plaintiff University in a successful trial of an action arising from fraud by senior university executives in connection with construction and...
- **Barber v Vrozos** – Counsel for the defendant Molson Sport & Entertainment in a trial regarding claims of negligent misrepresentation and interference with contractual...
- **Xerox Corporation v Infinite Media Inc.** – Counsel to Xerox in a software licensing dispute encompassing allegations of copyright infringement.
- **Parasiliti v Beatty** – Counsel to the successful defendant physicians at trial in a case involving allegations of professional negligence arising from the care, treatment and...
- **Merino v Klue** – Counsel to the plaintiffs/appellants in an appeal regarding the deductibility of a non-pecuniary benefit under an automobile policy of insurance.
- **Dundas v Zurich Canada** – Counsel to the successful appellants in an appeal concerning the limitation period for a claim against an insurer for allegedly delaying settlement of the...
- **Dent Wizard (Canada) Ltd v Catastrophe Solutions International Inc** – Counsel in an application regarding the enforcement of restrictive covenants in a commercial agreement.
- **Ortolan v Hotel-Dieu Grace Hospital** – Counsel to appellant physician on a successful appeal to Court of Appeal from a trial judgment awarding damages to plaintiffs for medical negligence...
- **Toronto (City) v WJ Holdings Ltd** – Counsel to a developer in a successful dismissal of an appeal by City regarding demolition permit issued by the Ontario Municipal Board.
- **Cordick v Bologna** – Counsel at trial in a successful defence of a gynecologist alleged to have negligently performed the removal an ovary.
- **Gore v College of Physicians and Surgeons of Ontario** – Counsel for the physician in an application for judicial review of the powers of the College of Physicians and Surgeons of Ontario to observe physicians...
- **Windsor Regional Hospital v Bordoff** – Counsel to the physicians in a trial of a cross-claim between the hospital and the physicians regarding the care of a psychiatric patient.
- **Deol v Grewal** – Counsel on a trial to determine the composition of the board of directors and the members of a non-profit corporation.

- **Revell v Heartwell** – Counsel in a trial and appeal in defence of a plastic surgeon alleged to have negligently performed reconstructive surgery.
- **Link v Venture Steel** – Counsel in a successful trial and appeal on behalf of the plaintiff for wrongful dismissal and payment for shareholdings and options.
- **Smith v Toronto Police Association** – Counsel in application to declare the actions of a non-share capital corporation to be ultra vires the corporation's constitution. On appeal, the Court of...
- **Ellins v Coventree Inc** – Counsel in an application for oppression by minority shareholders.
- **Animal House Investments Inc v Lisgar Development Ltd** – Counsel in an application involving a shareholder dispute in closely held company where the applicant was seeking a just and equitable winding-up.
- **Rexdale Singh Sabha Religious Centre v Chattha** – Counsel in a successful appeal from a decision setting the membership of a non-share capital corporation on the basis that proper procedure had not...
- **Impact Tool & Mould Inc (Estate Trustee of) v Impact Tool & Mould Inc (Interim Receiver of)** – Counsel in an appeal regarding the discretion of the court to restrict the ability of a trustee in bankruptcy to provide the inspectors and creditors of...
- **Houlihan v Caskey** – Counsel in a medical negligence trial successfully defending a physician against the allegation that he negligently prescribed Viagra to his patient.
- **Ferrara v Tabataba** – Counsel in an appeal concerning oppression remedy claims.
- **Aviva Insurance Company v Lombard General Insurance** – Counsel at trial and appeal for Lombard General Insurance Company of Canada regarding the claims of equitable restitution and contribution for losses...

SELECT PUBLICATIONS AND PRESENTATIONS

- **Examining and Cross-Examining Experts** – Risa M. Kirshblum and Dena N. Varah were invited to present at The Advocates' Society's annual program on *Examining and Cross-Examining Experts*, which will explore the ethical and practical issues relating to expert evidence, from deciding whether to retain an expert to qualifying and examining witnesses at trial.
- **10th Annual Professionalism Issues for Business Lawyers** – Dena N. Varah was co-chair of the OBA's 10th Annual Professionalism Issues for Business Lawyers, where expert panelists delved into emerging trends, key cases and developments on important ethical and practice management issues, and the resulting impacts to practice.
- **Prosecuting and Defending Professional Discipline Cases 2022** – Jaan Lilles and Dena N. Varah were invited to share their expertise at OsgoodePD's annual program on professional discipline hearings.
- **Corporate Oppression: Everything Employees Need to Know to Hold Directors to Account** – Dena Varah's article *Corporate Oppression: Everything Employees Need to Know to Hold Directors to Account* was published by Lexpert. In this article, Dena explores the use of oppression remedy by employees against directors.
- **8th Annual Professionalism Issues for Business Lawyers** – Dena N. Varah presented at the OBA's *8th Annual Professionalism Issues for Business Lawyers* program. Dena shared her expertise on the panel "From Shareholder Primacy to Stakeholder Governance? Implications for

Directors' Duties and the Oppression Remedy".

- **Ideas and Concrete Actions for Advancing Access, Equality, and Inclusion in Today's Legal Profession** – Dena N. Varah spoke at the inaugural Canadian Law Awards. Dena's panel discussed *Ideas and Concrete Actions for Advancing Access, Equality, and Inclusion in Today's Legal Profession*.
- **Litigating From Home: Managing Teams Remotely** – Dena N. Varah spoke at The Advocates' Society's program *Litigating From Home: Managing Teams Remotely*. The panel discussed best practices for managing and motivating a team remotely.
- **40th Annual Intensive Trial Advocacy Workshop** – Risa Kirshblum, Monique Jilesen, Shara Roy, and Dena Varah taught at Osgoode Professional Development's *40th Annual Intensive Trial Advocacy Workshop* on July 7-13, 2019.
- **Litigating Complicated Medical Negligence Claims** – Dena N. Varah presented at the Ontario Bar Association's program *Litigating Complicated Medical Negligence Claims* on the panel "Dealing with Experts". She shared her expertise on the standard of care and causation, advocacy, strategic planning, complying with ethical rules, draft reports, and bullet-proof expert opinions.
- **Commercial Litigation PG: Diversity & Inclusion Breakfast** – Dena Varah spoke at the Advocates' Society D&I Breakfast. The panel discussed the challenges of balancing a litigation practice and parenting commitments.
- **39th Annual Intensive Trial Advocacy Workshop** – Monique Jilesen, Risa Kirshblum, Shara Roy, and Dena Varah taught at Osgoode Professional Development's *39th Annual Intensive Trial Advocacy Workshop* on July 8-14, 2018.
- **Civil Appeals: The Year in Review** – Dena N. Varah spoke at the Law Society of Ontario's 2017 Civil Appeals: The Year in Review program. She took part in the "Corporate Law" panel and specifically provided her expert opinion on the decision in *Wilson v. Alharayeri: Expanding Corporate Directors' Personal Liability*.
- **38th Annual Intensive Trial Advocacy Workshop** – Monique Jilesen, Risa Kirshblum, Jaan Lilles, and Dena Varah taught at Osgoode Professional Development's *38th Annual Intensive Trial Advocacy Workshop* on July 9-15, 2017.
- **36th Annual Intensive Trial Advocacy Workshop** – Lawrence Thacker, Risa Kirshblum, Monique Jilesen, Eli Lederman, Matthew Sammon, Rebecca Jones, Jaan Lilles and Dena Varah were among the distinguished...
- **Strategic Considerations for Directors and Officers Before and During Litigations** – Dena Varah and Naomi Loewith, together with Afshan Ali, Senior Counsel at CIBC Legal Department, conducted a webinar as part of the Canadian Corporate Counsel Association/ Canadian Bar Association's Webinar Series on May 14, 2015.
- **Managing Employment Law Issues in the Digital Age** – Matthew Sammon co-chaired the OsgoodePD program Managing Employment Law Issues in the Digital Age on April 20, 2015, in which Jaan Lilles...

- **Practical Tools to Reduce your Organization's Risk with Social Media Use** – Matthew Sammon, Jaan Lilles and Dena Varah conducted a webinar as part of the Canadian Corporate Counsel Association/Canadian Bar Association's Webinar Series on October 17, 2014 from 12:00pm to 1:30 pm.
- **35th Annual Intensive Trial Advocacy Workshop** – Lawrence Thacker, Risa Kirshblum, Monique Jilesen, Eli Lederman, Matthew Sammon, Rebecca Jones, Jaan Lilles and Dena Varah were among the distinguished...
- **Will social media kill the non-solicitation clause?** – Dena Varah's article appears in the May 23, 2014 issue of the Lawyers Weekly published by LexisNexis Canada Inc.
- **Practical Tools to Reduce Your Company's Risk With Social Media** – Seminar Date Tuesday, March 25, 2014 Time 7:30 am - 8:00 am: Registration and Breakfast 8:00 am - 9:00 am: Presentation and Discussion Location L...
- **Social Media and Solicitation of Customers or Clients** – Dena Varah presented on the topic at the Practical Tools to Reduce Your Company's Risk With Social Media seminar held on March 25, 2014.
- **Litigation 101 Breakfast Seminar** –
- **Cross Examination of an Expert** – Dena Varah and Naomi Loewith joined forces to discuss cross examination of an expert and conducted a live demonstration for law students at McGill University.
- **Issue Estoppel Between Civil, Criminal and Administrative Proceedings** – Dena N. Varah discusses the topic at Osgoode's 7th Annual National Forum: Administrative Law & Practice.

BLOG POSTS

- **Severing a Single Sentence: The Interplay of the Employment Standards Act and Severability Clauses** – Employers sometimes rely on severability clauses—which provide that any clauses that are found to be illegal or unenforceable are severed from the agreement and that the agreement otherwise remains in effect—to hedge against the risk that clauses in employment contracts could be found to run afoul of the *Employment Standards Act* and be unenforceable as a whole. However, in its recent decision in *North v Metaswitch Networks Corporation*, the Court of Appeal for Ontario signalled that these clauses have limited effect when parties include terms in agreements that contract out of minimum employment standards.
- **Personal liability in the corporate context: open-ended, unclear and expansive** – The Supreme Court of Canada's recent decision in *Wilson v Alharayeri*, may have far reaching implications for corporate director liability. The unanimous decision affirmed an award for compensation for oppression directly against two directors of a corporation by relying on the leading case on the issue, *Budd v Gentra*.
- **Deference gives way to procedural fairness in PEI decision** – Administrative lawyers and regulators should take note: in *Swart v. College of Physicians and Surgeons of Prince Edward Island* the Prince Edward Island Court of Appeal provided express guidance in the prosecution of complaints against doctors.

SELECT NEWS ARTICLES

- **The 2024 Lexpert Directory Recognizes Lenczner Slaght’s Litigation Excellence** – Lenczner Slaght’s litigators continue to be recognized by their peers as the foremost practitioners in their fields.
- **Lexpert Recognizes Lenczner Slaght’s Litigation Strength** – An increasing number of our expert litigators continue to be recognized as the foremost lawyers in their fields by peers and senior members of the legal profession.
- **Chambers Canada Recognizes Lenczner Slaght as a Top-Tier Litigation Firm** – Canada’s leading litigation firm and its expert litigators continue to be recognized by world-renowned directory, Chambers & Partners.
- **Lenczner Slaght Litigators Recognized as Best Lawyers in Canada** – In the latest edition of *Best Lawyers in Canada*, 41 of our expert litigators are recognized for their expertise across 24 practice areas. The following lawyers have also been recognized as “Lawyer of the Year” for receiving the highest overall peer-feedback in their practice areas in Toronto.
- **Lenczner Slaght’s Litigation Excellence Recognized in 2023 Lexpert Directory** – Following comprehensive peer review surveys and interviews with senior members in the legal profession, the *2023 Canadian Legal Lexpert Directory* has recognized 31 of the firm’s expert litigators for their experience, knowledge, and precision, with 108 rankings spanning 17 practice areas.
- **Lenczner Slaght Ranked Band 1 in Chambers Canada for 5th Consecutive Year** – Canada’s leading litigation firm and its expert litigators continue to be recognized in the latest edition of world-renowned directory, Chambers & Partners.
- **Lenczner Slaght Litigators Recognized Among the Best Lawyers in Canada** – In the latest edition of *Best Lawyers in Canada*, 39 of our expert litigators are recognized by their peers for their expertise across 24 practice areas.
- **The 2022 Lexpert Directory Recognizes Lenczner Slaght’s Litigation Excellence** – 31 of our expert litigators are recognized by their peers as the foremost practitioners across 18 fields.
- **Where There’s Fire, There’s Smoke (and Negligence)** – In *Burr v Tecumseh*, our expert litigators successfully defended, at trial, against claims of negligence against the manufacturer of a component part in an end use appliance which caused a house fire.
- **Lenczner Slaght Litigators Ranked Among Best Lawyers in Canada** – In the latest edition of *Best Lawyers in Canada*, 37 of our expert litigators are recognized for their expertise across 25 practice areas.
- **Benchmark Canada Recognizes Lenczner Slaght as a “Powerhouse”** – Canada’s leading litigation firm continues to be recognized with the top tier ranking of “Highly Recommended in Ontario” for its Dispute Resolution practice.
- **The 2021 Lexpert Directory Recognizes 30 Lenczner Slaght Lawyers** – An increasing number of our expert litigators are recognized by their peers as the foremost practitioners in their fields.

- **Bold action needed to accelerate slow progress on gender equity: panel discussion on diversity** – Our EDI Chair, Dena N. Varah, was invited to the Canadian Law Awards to speak about ReferToHer™ and how the program aims to advance access, equality, and inclusion in today's legal profession.
- **Best Lawyers in Canada Recognizes Lenczner Slaght's Litigation Expertise** – Lenczner Slaght is proud to announce that 33 of our expert litigators are recognized in *Best Lawyers in Canada 2021*. Our lawyers received a total of 128 rankings, up from 100 in 2020.
- **Lexpert Highlights Lenczner Slaght's Professional Excellence** – Lenczner Slaght's litigators continue to be recognized by their peers as the foremost practitioners in their fields.
- **Best Lawyers in Canada Recognizes Lenczner Slaght with 100 Rankings** – In the latest edition of *Best Lawyers in Canada*, 28 Lenczner Slaght lawyers earned a total of 100 rankings, up from 86 in 2019.
- **Benchmark Recognizes Four Lenczner Slaght Partners** – Benchmark Litigation has recognized four Lenczner Slaght partners among the most talented litigators under the age of 40.
- **The 2019 Lexpert Directory Recognizes Lenczner Slaght with 89 Rankings** – An increasing number of our expert litigators are recognized by their peers as the foremost practitioners in their fields.
- **Benchmark Canada Highlights Lenczner Slaght's Litigation Excellence** – Benchmark Canada 2019 not only recognizes Canada's leading litigation firm with the top tier ranking of "Highly Recommended in Ontario", 17 Lenczner Slaght litigators are also ranked for their expertise.
- **Lenczner Slaght Litigators Ranked in Best Lawyers in Canada** – Canada's leading litigation firm is proud to announce that 25 of the firm's 58 lawyers have been recognized in the *Best Lawyers in Canada 2019* publication across multiple categories.
- **Lenczner Slaght Partners Featured in Latest Benchmark Recognitions** – Benchmark Canada has recognized six Lenczner Slaght partners as the most talented litigators under 40 and two partners recognized as two of the top female litigators in Canada.
- **Lexpert Recognizes Lenczner Slaght's Professional Excellence** – An increasing number of the firm's lawyers have been ranked by their peers as leading practitioners in their field.
- **Lenczner Slaght Receives Top Tier Ranking in Benchmark Litigation** – 19 Lenczner Slaght leading litigators are ranked in Benchmark Litigation's 2018 directory, including 7 new additions since last year. Three of the firm's litigation stars are also recognized as a Top 50 Trial Lawyer in Canada.
- **Lenczner Slaght Ranked Among the Best** – Almost half of the leading litigation firm's lawyers are recognized in the *Best Lawyers in Canada*.
- **Seven Lenczner Slaght Partners Named in Benchmark's Under 40 Hotlist 2017** – Benchmark Litigation has recognized seven Lenczner Slaght partners as the most promising emerging talent in their respective fields.
- **Lenczner Slaght Shines in 2017 Lexpert Rankings** – Lenczner Slaght's litigators continue to be recognized by their peers as leading practitioners in their fields according to the 2017 Canadian Legal Lexpert Directory.

- **Lenczner Slaght Lawyers Ranked Best** – Nearly half of the firm's lawyers recognized among Canada's foremost practitioners
- **23 Lenczner Slaght Lawyers Ranked in 2016 Lexpert Directory** – This year, the Canadian Legal Lexpert® Directory increased the number of Lenczner Slaght lawyers ranked among the best in Canada to 23, up from 20 in 2015.
- **York University Succeeds in Fraud Claim Against Former Executive** – Following a lengthy trial, the Ontario Superior Court of Justice has determined that former York employees played key roles in several significant frauds.
- **Lenczner Slaght Lawyers Repeatedly Ranked Among the Best** – Half of the firm's lawyers are ranked as leading practitioners and three named "Lawyer of the Year" in the latest Best Lawyers in Canada Directory.
- **Lenczner Slaght Congratulates Three New Partners** – Canada's leading litigation practice increases to 23 partners.
- **Social Media in the Workplace** – Following the webinar on Practical Tools to Reduce your Organization's Risk with Social Media Use which took place on October 17, 2014, Matthew Sammon, Jaan Lilles and Dena Varah were quoted in an article in the Winter issue of the CCCA Magazine which highlights the key takeaways.
- **23 Lenczner Slaght Lawyers Ranked Among the Best** – Nearly half of the firm's 49 lawyers are ranked as leading practitioners and two named "Lawyer of the Year" in the latest Best Lawyers in Canada Directory.
- **Lenczner Slaght Lawyers Ranked Among the Best** – Canada's leading litigation practice has 22 professionals in the 2014 Best Lawyers in Canada list.

PROFESSIONAL ACTIVITIES

- The Advocates' Society
- Canadian Bar Association
- Ontario Bar Association