



Jonathan Chen

JONATHAN CHEN
is a partner at Lenczner Slaght.

"Jon is a capable litigator and very thorough and detail oriented." — *Chambers Canada*

Jonathan's litigation practice is focused on class actions, business disputes, product liability and professional negligence matters. His clients have included financial institutions, technology companies, real estate developers and pharmaceutical companies. He has appeared before the Ontario Superior Court of Justice, the Ontario Court of Justice, the Ontario Court of Appeal, the Federal Court as well as administrative tribunals.

Prior to joining the firm, Jonathan articulated and practiced at a leading national law firm where he defended banks, automotive companies, insurers, municipalities, police services boards and educational institutions. He also assisted on various class actions and was counsel on one of the first aggregate damages decisions in Canada.

While at law school, Jonathan was a Co-Editor-in-Chief of the Queen's Law Journal and a Teaching Assistant in Legal Writing and Research.

Education

LawVision Group (2017) Legal Project Management
Queen's University (2012) JD (Dean's Honours List)
University of Toronto (2008) HBA (Criminology, Sociology and Philosophy – High Distinction)

Bar Admissions

Ontario (2013)
British Columbia (2024)

Practice Areas

Appeals
Arbitration
Class Actions
Commercial Litigation
Injunctions
Insurance
Intellectual Property
Product Liability
Professional Liability and Regulation
Trusts and Estates Litigation

Contact

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RECOGNITION

- Arbor Award (2023)
University of Toronto
- Best Lawyers in Canada (2022-2024)
Corporate & Commercial Litigation
- Canadian Legal Lexpert® Directory (2022-2024)
Class Actions, Litigation - Corporate Commercial, Litigation - Product Liability
- David Sabbath Prize in Labour Law: Collective Agreements and Arbitration (2012)
Queen's University, Faculty of Law
- Lexpert Special Edition: Canada's Leading Litigation Lawyers (2023)
- Mentor of the Year (2024)
Federation of Asian Canadian Lawyers

SELECT CASES

- **Larsen v ZF TRW Automotive Holdings Corp** – Counsel to an automotive parts manufacturer in a proposed class action relating to allegedly defective airbag control units. Certification was dismissed.
- **Waldron v His Majesty the King in Right of Canada et al** – Counsel to

the Claims Administrator in a motion and appeal arising from a dispute over the interpretation of the Indian Day School Settlement Agreement.

- **MacDonald v BMO Trust Company** – Counsel to the defendants in a class action alleging failure to disclose foreign exchange fees in registered accounts.
- **Bernstein v Peoples Trust Company** – Counsel to the Defendants in a class proceeding alleging that various brands of network-branded payment cards were subject to activation, dormancy...
- **Barry Lacroix and Vincent Campbell v Walmart Canada Corporation et al and Gary Dussiaume v Walmart Canada Corporation et al** – Counsel to Walmart in two proposed class actions (Ontario and British Columbia) relating to the manufacturing, supply and sale of Zantac Ranitidine.
- **Ramdath v George Brown College of Applied Arts and Technology** – Counsel to the defendant at trial and appeal in a consumer protection class action brought by former students. (Prior to joining Lenczner Slaght)
- **General Motors Class Actions** – Counsel to General Motors in defence of class actions relating to defective ignition switches and airbags. (Prior to joining Lenczner Slaght)
- **City of Hamilton Judicial Inquiry** – Counsel to the City of Hamilton in a Judicial Inquiry into the Red Hill Valley Parkway.
- **Empire Steel Inc v 2469521 Ontario Inc** – Counsel to the Defendants in an action arising from an alleged breach of a supply agreement.
- **Difederico v Amazon.com Inc** – Served as *amicus curiae* in a class action settlement approval motion decision.
- **Jardine Lloyd Thompson Canada Inc v Aon Reed Stenhouse Inc** – Counsel to Jardine Lloyd Thompson in an action alleging breach of fiduciary duties, breach of contract and misappropriation of confidential information.
- **Jeff Day Hospitality Inc v Heritage Conservation Holdings, Canada, Inc** – Counsel to the vendor in an appeal relating to obligations under the agreement of purchase and sale of a hotel.
- **Petrochemical Commercial Company International Ltd v Nexus** – Counsel to individual respondents in an application relating to a worldwide and multijurisdictional Mareva injunction, including Malaysia, Cyprus and Australia.
- **Presley v Van Dusen** – Counsel to the homeowners in a successful appeal to determine a question of law that the limitation period did not expire prior to the commencement of the action based on the appropriateness requirement of the discoverability provisions in the *Limitations Act, 2002*.
- **Grand Land Investments Inc v Cameron Stephens Mortgage Capital Ltd** – Counsel to Cameron Stephens Mortgage Capital Ltd. in an action concerning the alleged breach of a commitment letter.
- **Cameron Stephens Mortgage Capital v 272 Ontario Inc** – Counsel to Cameron Stephens Mortgage Capital Ltd. in a dispute regarding an alleged breach of a loan agreement.
- **Max Aicher (North America) Realty Inc v Stelco Inc** – Counsel to a supplier of hot rolled steel bar products in successfully obtaining an interlocutory injunction preventing the termination of a supply agreement for a period of time.
- **Original Traders Energy Ltd (Re)** – Counsel to Mareva Respondents in injunction and CCAA proceedings.
- **Cameron Stephens Mortgage Capital Ltd v 1091369 Ontario Inc** –

- Counsel to a construction lender in an application to appoint a receiver.
- **Rovi Guides and TiVo Solutions v Bell Canada** – Counsel to TiVo Solutions and its subsidiary Rovi Guides in a patent infringement action, involving patents relating to interactive television program guides, DVR technology, and related technologies.
 - **Rovi Guides and TiVo Solutions v Telus Corporation** – Counsel to TiVo Solutions and its subsidiary Rovi Guides in a patent infringement action, involving patents relating to interactive television program guides, DVR technology, and related technologies.
 - **Rovi Guides and TiVo Solutions v Videotron** – Counsel to TiVo Solutions and its subsidiary Rovi Guides in a patent infringement action, involving patents relating to interactive television program guides, DVR technology, and related technologies.
 - **Schenk v Valeant Pharmaceuticals International Inc** – Counsel to Valeant in a breach of contract action in respect of a pharmaceutical product.
 - **Confidential Investigation** – Counsel to an aerospace manufacturer relating to a product liability claim. (*Prior to joining Lenczner Slaght*)
 - **XL Insurance Company SE v ACE INA Insurance** – Counsel to ACE defending claim for defence and indemnity for environmental contamination actions.

SELECT PUBLICATIONS AND PRESENTATIONS

- **Class Actions Advocacy** – Jonathan Chen co-chaired The Advocates' Society's annual program on Class Actions Advocacy. The program provided valuable insights into recent developments, comparative legislation, and multijurisdictional challenges in class actions.
- **44th Annual Intensive Trial Advocacy Workshop** – Lawrence E. Thacker, Risa M. Kirshblum, Sana Halwani, and Jonathan Chen were invited to share their expertise at Osgoode Professional Development's *44th Annual Intensive Trial Advocacy Workshop*.
- **Evidence Tips & Tricks for Early Career Litigators** – Jonathan Chen shared his expertise at the OBA's program on Evidence Tips & Tricks for Early Career Litigators.
- **Navigating Leave, Parenthood, and Return to Work (Part One)** – The Federation of Asian Canadian Lawyers (FACL) invited Jonathan Chen to share his perspective on balancing new parenthood and work.
- **The Coles Notes on Coles: Product Recalls Can Defeat Certification** – Jonathan Chen and Angela Hou co-authored an article on the decision in *Coles v FCA Canada Inc.*, a case which further highlights the effectiveness of a thoughtful recall program initiated by the manufacturer at defeating certification. The article was published by The Lawyer's Daily.
- **Obtaining the Most Favourable Outcome: Using Litigation Technology to Bolster Your Case at Trial** – Jonathan Chen shared his experience and expertise in virtual trial advocacy at the CBA's upcoming program "Obtaining the Most Favourable Outcome: Using Litigation Technology to Bolster Your Case at Trial". He discussed the impact of technology on bringing a case to life and increasing the understanding of testimony and evidence.

- **Remedies in Class Actions: Aggregate Damages** – Jonathan Chen shared his expertise at the OBA's upcoming program titled *Remedies in Class Actions: Aggregate Damages*.
- **Real Talk: The Life of a Litigator, Civil and Criminal Litigation** – Jonathan Chen was invited to speak on episode 1 of FACL's mentorship series on what it means to be a litigator.
- **13th Annual Class Actions Colloquium** – Jonathan Chen shared his expertise at the OBA's 13th Annual Class Actions Colloquium. Jonathan led a panel discussion on the *Latest Developments in Damages*.
- **Examinations for Discovery: Building Block Series** – Jonathan Chen presented at The Advocates' Society's Building Block Series on Examinations for Discovery. Jonathan was invited to speak at the program's first session titled "Theory, Strategy and Preparation" where he shared his expert tips on *Preparing Your Witness for Discovery*.
- **Tech Hack for Litigators** – Jonathan Chen spoke at The Advocates' Society's program titled "Tech Hack for Litigators". Jonathan shared his expertise on the panel *Taking Command of the Virtual or Electronic Courtroom*.
- **Keeping Up With The Case Law** – Jonathan Chen led the May 2020 edition of the OBA Class Actions Law monthly call-in series. Jonathan provided his expert insight on key class action decisions from the past month.
- **FACL 13th Annual Conference** – Jonathan Chen spoke at the Federation of Asian Canadian Lawyers' 13th Annual Conference on February 8. He shared his expertise on the panel discussion *The Business of Law: Powering It Up on the Tech Side*.
- **Abolishing Immunity for the Friendly Expert Witness** – Volume 40, Number 4 of The Advocates' Quarterly (February 2013) (*Prior to joining Lenczner Slaght*)

BLOG POSTS

- **Pay to Play: Court of Appeal Enforces Full Payment of Lender Fee** – Barring a very narrow set of circumstances, sophisticated parties with equal bargaining power are generally held to the terms of their agreement. *660 Sunningdale GP Inc v First Source Mortgage Corporation* is a recent example where a commercial developer, 660 Sunningdale GP, was ordered to pay the entirety of the lender fee to the lender, First Source Mortgage Corporation, even though the loan did not proceed.
- **No Harm, No Remedy: The Availability of Non-Compensatory Remedies under the Consumer Protection Act** – By playing their essential gatekeeping role, class action judges have in numerous decisions clarified the necessary elements of various causes of action and the availability of specific remedies in a particular case. What constitutes harm that is compensable, for example, has featured in numerous product liability class actions and the failure to show harm has put an end to many of them. For strategic and practical reasons, some class actions do not seek compensation for losses that the class members suffered. Instead, the strategy is to pursue remedies that do not correspond with personal losses such as disgorgement, nominal damages and punitive damages. *Hoy v Expedia Group Inc* is a recent example.
- **Court Affirms Extreme Circumstances Required to Restrain Power of Sale** – A power of sale is a very common mortgage remedy used by lenders where a borrower defaults under the applicable mortgage agreement. In light of the current interest rate environment, the power of

sale process has anecdotally been exercised more frequently. Lenders (and borrowers), however, should keep in mind when such a right can be restrained.

- **The Devil is (Apparently, Not Always) in the Details: Court of Appeal Comments on Pleadings Requirement in Product Liability Actions** – Pleadings continue to be a popular battleground in the product liability context. Over the years, a body of law has developed respecting motions to strike for negligent design, negligent manufacture and failure to warn claims. Nevertheless, there continues to be debate as to the specificity needed for pleading these types of claims. That debate is fuelled in part by jurisprudence demonstrating a high tolerance for claims that are arguably vague and lacking in material facts. Even where a claim is struck, plaintiffs are routinely permitted to amend their pleading.
- **Let Me See You 1, 2 Step: The Federal Court of Appeal Affirms the “Two-Step” Approach to the Common Issues Requirement** – A few years after the Supreme Court of Canada released *Hollick v Toronto (City)*, which provided a detailed articulation of the common issues requirement under s. 5(1)(c) of the *Class Proceedings Act, 1992*, Ciara released her chart-topping single, “1, 2 Step”. While we would not go so far as to say that her single was one of the most succinct summaries of the common issues test from the early 2000s, she may have been on to something.
- **Recall Remedy Once Again Preferable to Class Action** – History has shown that recalls for product defects are often followed by a proposed class action lawsuit. While many products cases in that context have been certified, we have now seen certification of proposed class actions being denied on the basis that there is already an effective recall campaign in place. We have seen this in *Maginnis and Magnaye v FCA Canada et al* and *Richardson v Samsung*.

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.
- **Jonathan Chen Named FACL’s Mentor of the Year** – Jonathan Chen was recognized at the 17th Annual FACL Gala on Saturday, March 2 for his demonstrated positive impact on the professional development and career trajectory of members of the legal community, and particularly the Asian community, through mentorship.
- **New College Arbor Award Winners 2023** – Jonathan Chen was honored with a 2023 Arbor Award, in recognition of his outstanding and enduring contributions to the University of Toronto. Following his extraordinary experience in the New College Career Mentorship Program, Jonathan returned to volunteer his time with the program as a mentor. In this capacity, Jonathan helps students learn more about the application process, navigating law school, and working as a lawyer.
- **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.

- **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 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.
- **Queen’s Wins Provincial Trial Advocacy Moot –** Our expert litigators, Brian Kolenda and Jonathan Chen, coached the winning team at the 2022 Ontario Trial Lawyers' Association Cup.
- **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.
- **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.
- **Lenczner Slaght Congratulates Newest Partner: Jonathan Chen –** We are proud to welcome Jonathan Chen to the partnership.
- **Jonathan Chen Joins Lenczner Slaght –** Canada’s leading litigation firm continues to attract top talent.

PROFESSIONAL ACTIVITIES

- Canadian Bar Association
- Ontario Bar Association
Member-At-Large of the Class Actions Executive (2019-2021)
- The Advocates' Society
- Pro Bono Law Ontario
Duty Counsel
- University of Toronto
New College Career Mentorship Program
- Federation of Asian Canadian Lawyers