



# Jaan Lilles

## JAAN LILLES

is a partner at Lenczner Slaght and the head of the firm's Professional Liability practice group.

"Jaan handles all matters, no matter the complexity, and takes on every challenge with the same even-keeled approach. His recommendations are direct and to the point. He has achieved excellent outcomes for his clients despite challenging facts." — *Chambers Canada*

Jaan's practice includes a diverse range of litigation: professional liability, medical malpractice, commercial disputes, employment, and administrative law. He has appeared before all levels of court in Ontario, including as lead counsel in the Court of Appeal for Ontario, Divisional Court and the Ontario Superior Court of Justice and he has appeared in the Supreme Court of Canada.

Jaan regularly represents clients before administrative tribunals both as a prosecutor and as defence counsel. He has handled professional discipline matters before the Law Society Tribunal and several Discipline Committees of various regulated health colleges. He has frequently participated in judicial review applications and appeals from administrative tribunals.

A keen interest in the legal theory of privacy led Jaan to pursue a Master's of Law degree at the University of Toronto, where his graduate thesis was titled "The Common Law Right to Privacy." Jaan is a regular speaker at continuing legal education events and taught for three years as an adjunct professor at the Faculty of Law, Western University.

Jaan has been recognized as a leading lawyer by various organizations including Lexpert, Best Lawyers, and Benchmark Canada.

### Education

University of Toronto (2009) LLM  
 University of Toronto (2003) LLB  
 (Honours Standing - 3rd Year)  
 University of Toronto (1999) MA  
 (English Literature)  
 McGill University (1998) BA  
 (Honours - English Literature)

### Bar Admissions

Ontario (2004)

### Practice Areas

Appeals  
 Commercial Litigation  
 Employment  
 Professional Liability and Regulation  
 Public Law

### Contact

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## RECOGNITION

- ▶ Benchmark Canada (2018-2023)  
 Litigation Star – Class Action, Commercial, Professional Liability
- ▶ Best Lawyers in Canada (2014-2024)  
 Administrative and Public Law, Corporate & Commercial Litigation, Health Care Law, Medical Negligence
- ▶ Best Lawyers in Canada (2019)  
 Toronto "Lawyer of the Year" in Health Care Law

- Canadian Legal Lexpert® Directory (2017-2024)  
Litigation - Corporate Commercial, Medical Negligence, Professional Liability,  
Litigation - Regulatory & Public Law (2023)
- Chambers Canada (2023-2024)  
Healthcare: Contentious (Nationwide – Canada)
- Lexpert Special Edition: Canada's Leading Health Sciences Lawyers  
(2021)
- Lexpert Special Edition: Canada's Leading Litigation Lawyers (2022-  
2023)

## SELECT CASES

- **Armstrong v Ward** – Counsel to a physician in rare medical malpractice case before the Supreme Court of Canada, which discussed interesting issues relating to the standard of care.
- **Jha v College of Physicians and Surgeons of Ontario** – Counsel to a physician in a complex and novel constitutional challenge to a provision of the *Regulated Health Professions Act* on the basis of paramourncy and a conflict with provisions of the *Criminal Code*.
- **Maciver v Gill** – Counsel to a successful defendant in an ANTI-SLAPP motion arising out of statements made during the COVID-19 pandemic. The case involved interesting issues of the limits of free speech and alleged misinformation in the context of a global pandemic. The matter received significant media attention.
- **Ponessa v Bonenfant** – Counsel to a physician on a motion to determine the existence of a novel duty of care in the health care setting.
- **Matwijow v Chan** – Counsel to the successful defendant physician in the trial of an action involving a bowel perforation in a laparoscopic hysterectomy.
- **Estil v FTI Professional Grade** – Counsel to the successful defendant in resisting an injunction for a declaration of partnership arising out of the supply of ventilators to the Government of Canada.
- **College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario v Xu** – Counsel to the College of Traditional Chinese Medicine Practitioners in a complex prosecution of a member found guilty of issuing false diplomas to numerous applicants to the College. The matter raised issues of fundamental importance to the College including the integrity of its registration system.
- **Law Society of Ontario v Sorrenti** – Counsel to the Law Society of Ontario in an application to have a trustee appointed over a Lawyer's mortgage administration practice.
- **Sullivan v Northwood Media** – Counsel to the Plaintiff in copyright case on a novel motion to impose a discovery plan.
- **MacIsaac v Mackinnon** – Counsel to the defendant in multi-week jury trial including a motion to exclude the evidence of a proposed expert witness. This case raised complicated issues of causation involving an extremely rare metabolic condition.
- **College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario v Federation of Ontario Traditional Chinese Medicine Association** – Counsel to the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario in an application and subsequent appeal against...
- **Commissioner of Competition v Rogers Communications Inc** – Counsel to the Commissioner of Competition in proceedings against Rogers Communications Inc. and Chatr Wireless Inc. relating to

misleading advertising...

- **Kerr v Danier Leather Inc** – Counsel to Danier Leather Inc. in a shareholder class action asserting a statutory cause of action for prospectus misrepresentation pursuant to the...
- **Oshkosh Defense Canada Inc v Department of Public Works and Government Services** – Counsel to the Government of Canada in connection with proceedings relating to the procurement process and bid evaluation relating to a contract for the...
- **Law Society of Upper Canada v Groia** – Counsel to the Law Society of Upper Canada in the prosecution of a lawyer for professional misconduct. A three member panel of the Divisional Court...
- **Moore v Getahun** – Counsel on appeal for the defendant physician in a proceeding alleging negligence in the treatment of a fractured wrist. The Court of Appeal's decision...
- **Law Society of Upper Canada v Opara** – Counsel to the Law Society of Upper Canada in a successful appeal of a decision concerning unprofessional conduct by a barrister.
- **Law Society of Upper Canada v DeMerchant** – Counsel to the Law Society of Upper Canada in successfully defending a motion for production of prosecution documents on the basis of a claim of abuse of...
- **College of Massage Therapists of Ontario v Stefanov** – Counsel to the College of Massage Therapists of Ontario in a prosecution of a member for professional misconduct under the Regulated Health Professions...
- **Sazant v College of Physicians and Surgeons of Ontario** – Counsel to intervener physicians in a constitutional challenge to a provision of the *Regulated Health Professions Act*.
- **Montgomery v Seiden** – Counsel to the successful defendant doctor on a motion to strike the statement of claim without leave to amend as disclosing no reasonable cause of action...
- **Law Society of Upper Canada v Coady** – Counsel for the Law Society in the successful prosecution of a member for professional misconduct. The decision was affirmed on appeal by the Law Society...
- **McCormick v Tsai** – Counsel in a motion to oppose the addition of a party after the expiry of a limitation period in an alleged case of misnomer.
- **R v Beitel** – Counsel to a physician in a successful Charter application to exclude evidence seized in contravention of the accused's right to be free from unreasonable...
- **Benard v Mundle** – Counsel to the successful defendant obstetrician in the trial of an action involving a post partum hemorrhage.
- **Salah v Timothy's Coffees of the World Inc** – Counsel in the trial of an action on behalf of defendant franchisor with respect to an alleged breach of a franchise agreement relating to the renewal of...
- **Weisz v Four Seasons Holdings Inc** – Counsel in an application for leave to appeal and appeal from a decision of an arbitrator in a constructive dismissal action.
- **Graf v Preddie** – Counsel to successful respondent on an appeal from a judgment finding breach of a fundamental term of a tenancy contract.
- **College of Physicians and Surgeons of Ontario v Beitel** – Counsel in the defence of a physician before a panel of the Discipline Committee of the College of Physicians and Surgeons of Ontario. Successful...

- **McAllister Estate v Hudgin** – Counsel on a motion dealing with the rights of beneficiaries to estate disclosure.
- **Spirito v Trillium Health Centre** – Counsel on appeal clarifying the application and interpretation of the Limitations Act, 2002 to the addition of parties after the expiry of a limitation...
- **Pouget v Hynes** – Counsel on a motion to strike a statement of claim for failing to disclose a cause of action.
- **Jakubovic v Health Professions Appeal and Review Board** – Counsel on a successful application for judicial review of a decision of the Health Professions Appeal and Review Board overturning a decision of the...
- **Vrooman v Taylor** – Counsel in a successful motion to strike a Statement of Claim.
- **Berlet v E\*Trade Canada Securities Corp** – Counsel in a successful defence at trial of an action against a discount broker involving options and futures trading.
- **CIT Financial v Sharpless** – Counsel on two successful motions to strike a Statement of Claim in a case involving complex taxation issues.
- **Bovindgon v Hergott** – Counsel for the defendant physician in a lengthy jury trial and an appeal in a wrongful life case.
- **Marsden v Taylor** – Counsel in an appeal from a decision of the Consent and Capacity Board
- **O'Toole v Sumner** – Counsel on a successful motion for summary judgment in a medical malpractice case.
- **Dufort Testing Services Ltd v Berube** – Counsel on a successful motion to strike a pleading and successive appeal.
- **Ng v Richmond York Developments** – Counsel to the plaintiff in a real estate dispute. Successfully moved to register a certificate of pending litigation.
- **Sears Canada Inc v Pi Media Ltd** – Counsel on a successful motion opposing particulars.
- **Maraschiello-Basnett v Ku** – Counsel to the defendant physicians on a motion to enforce a settlement in a medical malpractice action concerning the care and treatment provided by the...
- **Decision No. 1645/99R3** – Counsel on a successful appeal from a decision of the Workplace Safety and Insurance Board denying compensation for an injured worker.
- **Watson v Soon** – Counsel to the defendant urologist in successfully defeating a claim at Trial for damages arising from the misdiagnosis of kidney cancer in a diabetic patient.

#### SELECT PUBLICATIONS AND PRESENTATIONS

- **Prosecuting and Defending Professional Discipline Cases 2023** – Jaan Lilles and Colin Johnston will be sharing their expertise at OsgoodePD's annual program on professional discipline hearings. Jaan will discuss *Assessing Duties and Powers* while Colin presents on *Examinations, Interviews, Inquiries*.
- **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.
- **Prosecuting and Defending Professional Discipline Cases 2020** – Jaan Lilles shared his expertise at OsgoodePD's webcast program Prosecuting and Defending Professional Discipline Cases 2020. He

presented on the panel *Assessing Duties and Powers*.

- **Prosecuting and Defending Professional Discipline Cases** – Jaan Lilles presented at OsgoodePD's Prosecuting and Defending Professional Discipline Cases program. He shared his expertise on the panel discussion *Assessing Duties and Powers*.
- **Transparency and Disclosure Before Administrative Tribunals** – Jaan Lilles presented at The Advocates' Society's program titled “*Transparency and Disclosure Before Administrative Tribunals*”. The program provides an update on the obligations, opportunities, and trends in this area.
- **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.
- **The Osgoode Certificate in Health Law** – Jaan Lilles joined a faculty for the Medical Malpractice: Theory and Practice module for The Osgoode Certificate in Health Law program on April 4, 2017...
- **12th Annual Update: Personal Injury Law & Practice** – Jaan Lilles joined an expert faculty at Osgoode Professional Development's 12th Annual Update: Personal Injury Law & Practice on September 23...
- **The tricky timing of post-judgment mitigation** – Jaan Lilles article appeared in the July 10, 2015 issue of the Lawyers Weekly. This article touches on post-judgment trust over employment income earned during the notice period in the event of a wrongful dismissal.
- **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...
- **The Osgoode Certificate in Professional Regulation and Discipline in the Ontario Health Care Sector** – Jaan Lilles was a speaker at this Osgoode Professional Development program on Pre-Hearing Procedures & Fitness to Practice Proceedings
- **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...
- **Ownership of Professional Social Media Profiles Such As LinkedIn** – Jaan Lilles presented on the topic at the Practical Tools to Reduce Your Company's Risk With Social Media seminar held on March 25, 2014.
- **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...
- **Litigation 101 Breakfast Seminar** –
- **Prosecuting and Defending Professional Discipline Cases** – Jaan Lilles is a panel member on investigative duties and powers in the

Osgoode Short Course on prosecuting and defending professional discipline cases.

## BLOG POSTS

- **Entire agreement clauses: usually, but not always, the entire story** – Entire agreement clauses are often used to insulate contracting parties from disputes over pre-contractual representations. The recent decision of *Curtis Chandler v Karl Hollett* demonstrates how bare allegations of pre-contractual misrepresentation will rarely win out over such clauses.
- **Participant Experts: who are they, and what can they say?** – Expert witnesses have an obligation to be independent and impartial, but not all expert witnesses are created equal.
- **Québec Court of Appeal Affirms Duty to Protect and Enhance Brand** – The Quebec Court of Appeal affirmed the trial decision in *Dunkin Brands Canada Ltd v. Bertico Inc.* establishing a duty on franchisor Dunkin Brands to take reasonable steps to protect and enhance the brand in the face of competition. The effect of the decision will have a lasting and potentially far reaching impact on the duties of parties to franchise agreements.
- **Nova Scotia Barristers Society without jurisdiction to refuse Trinity Western University grads** – The Nova Scotia Supreme Court ruled late in January that the Nova Scotia Barristers Society ("NSBS") must accredit law degrees granted by Trinity Western University ("TWU") in Langley, British Columbia.

## 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 Recognized Among Canada's Leading Litigation Lawyers** – Following an in-depth peer review process, the 2022 Lexpert Special Edition: Canada's Leading Litigation Lawyers guide recognizes 15 Lenczner Slaght lawyers for their extensive courtroom experience and subject-matter expertise. We know courts, and courts know and trust us.

That is why clients turn to us to solve their most complex legal problems.

- **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.
- **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.
- **Lexpert Recognizes Lenczner Slaght’s Leading Health Sciences Expertise** – The inaugural issue of Lexpert’s Special Edition on Canada’s Leading Health Sciences Lawyers recognizes 11 Lenczner Slaght lawyers for their extensive industry experience. The rankings are also published in the June issue of the Globe & Mail’s Report on Business.
- **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.
- **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.
- **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.
- **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*.
- **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.
- **Ontario Court of Appeal Dismisses Appeal in Groia v. Law Society of Upper Canada** – Tom Curry, Jaan Lilles, and Andrew Porter of Lenczner Slaght acted as counsel to the Law Society of Upper Canada before the Court of Appeal for Ontario concerning the finding of professional misconduct and one month suspension imposed by the Law Society Tribunal's Appeal Division following a lengthy discipline hearing into the lawyer's unprofessional conduct in court.
- **Three Lenczner Slaght cases featured in Lexpert's Top 10 Business Decisions of 2015** – Canada's leading litigation practice acted as counsel on the top case in Lexpert's annual ranking
- **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.
- **Divisional Court Dismisses Groia Appeal** – Tom Curry, Jaan Lilles and Andrew Porter acted as counsel for the Law Society of Upper Canada.
- **Lenczner Slaght Congratulates Three New Partners** – Canada's leading litigation practice increases to 23 partners.
- **Colleagues defend Bre-X lawyer in Law Society fight** – Tom Curry and Jaan Lilles were quoted in the Toronto Star on January 9, 2015.
- **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.
- **Art of the Case: How the Chatr Wireless case avoided incivility despite the high stakes** – Tom Curry, Jaan Lilles and Paul-Erik Veel were quoted in the September, 2014 issue of Lexpert Magazine in relation to Commissioner of Competition v. Rogers Communications Inc. et al.
- **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

- Ontario Bar Association
- The Advocates' Society
- Canadian Bar Association
- University of Western Ontario, Faculty of Law  
Past Adjunct Professor (2014-2016)