



#### Education

Osgoode Hall Law School (1991) LLB  
University of Western Ontario (1988)  
BA (Arts)

#### Bar Admissions

Ontario (1993)

#### Practice Areas

Appeals  
Commercial Litigation  
Trusts and Estates Litigation  
Professional Liability and Regulation  
Public Law

#### Contact

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# Anne E. Posno

ANNE E. POSNO is counsel at Lenczner Slaght.

Anne is an experienced and successful trial lawyer who brings passion and commitment to each case.

Anne has particular expertise in cases involving estates litigation, medical negligence, professional negligence and commercial disputes, especially in real estate, fraud and directors' and officers' liability. Anne also regularly works in the areas of human rights and of privacy law, and has acted as lawyer for The Refugee Law Office.

This diversity reflects Anne's ability to bring creativity and experience to bear. Her impressive track record demonstrates her solid judgment and her in-depth understanding of her client's needs.

Anne appears before the Ontario Superior Court of Justice, the Toronto Commercial List, the Ontario Court of Appeal, the Toronto Estates Court, the College of Physicians and Surgeons of Ontario, the Federal Court, private arbitrations, and the Human Rights Tribunal of Ontario. In addition, Anne has experience before other administrative tribunals including the Consent and Capacity Board and the Offices of the Privacy Commissioners of Ontario and Canada. Anne also presents on topics relating to health law. She is also a certified Associate Member of the Society of Trusts and Estates Practitioners (STEP).

## RECOGNITION

- **Best Lawyers in Canada (2014-2020)**  
Corporate & Commercial Litigation, Health Care Law, Medical Negligence, Trusts and Estates
- **Canadian Legal Lexpert® Directory (2013-2019)**  
Estate & Personal Tax Planning, Litigation - Corporate Commercial, Medical Negligence, Professional Liability

## SELECT CASES

- **AbbVie Corporation v Janssen Inc** – Counsel for Janssen in a patent infringement action relating to Stelara (ustikinumab), a monoclonal antibody product for use in the treatment of psoriasis...
- **Lateef v Barrage** – Counsel to the applicants in a will challenge involving an international estates and lost codicil.

- **Estate of Alan Cherry** – Counsel for the estates trustee in multiple legal proceedings including a solicitors' negligence action, passing of accounts and claim for dependent's support.
- **OHS v OSPCA** – Counsel for the respondent charity in a by-law and governance dispute.
- **Falodun v Lemckert** – Counsel to the respondent physician in proceedings before the Human Rights Tribunal relating to an allegation of discrimination with respect to services...
- **Molnar v Antoniuk** – Counsel to defendant physicians in a jury trial involving allegations of negligence in relation the treatment of the plaintiff's depression and risk...
- **The Board of Regents of Victoria University v GE Canada Real Estate Equity** – Counsel to GE Canada Real Estate Equity in an appeal to the Superior Court of Justice and to the Court of Appeal from an arbitration award over the...
- **Barrett v Saunders** – Counsel for beneficiary in a will challenge alleging negligent payment of a life interest under the Beck estate.
- **Jacot v Baxter** – Counsel for estate trustee and former family physician in a will challenge primarily based on alleged incapacity proceedings.
- **Pestotnik v Opara** – Counsel to successful beneficiary in administration of Estate, including stay application and appeal proceedings.
- **Goodman v Viljoen** – Counsel to the defendant physician in a compromised infant medical negligence action at trial and on appeal.
- **Gentra Canada Investments Inc v Lipson** – Counsel to successful plaintiff/respondent on an appeal from complex motion for summary judgment. Appeal raised issues of law involving the assi...
- **Marshall v Lakeridge Health Corporation** – Counsel to a physician in proceedings before the Human Rights tribunal relating to allegations of discrimination made against a physician, a hospital and...
- **Timpano v Hurst** – Counsel to successful defendant general surgeon on a dismissal of an appeal and at the trial of a medical negligence action involving a patient who...
- **Mendlowitz v Chiang** – Counsel to an individual in a series of complex proceedings relating to the enforcement of a foreign judgment, bankruptcy, and contempt of court. In the...
- **UBS Securities Canada, Inc v Sands Brothers Canada, Ltd** – Counsel on an appeal from a trial of an application to enforce an agreement to sell securities which were subsequently converted to shares of the TSX.
- **Tobin v Garside** – Counsel to successful defendant psychiatrist at trial in a medical negligence action involving an alleged improper discharge from hospital of a patient...
- **Senger v Lachman** – Counsel on successful appeal of the dismissal of an action based on a faulty jury charge. A new trial was ordered.
- **Workentin v Hospital for Sick Children** – Counsel to successful defendant pediatric surgeon at trial in a medical negligence action involving an alleged misdiagnosis of a bowel disease.
- **Vescio v Garfield** – Counsel to successful defendant pediatrician at trial in a medical negligence action involving an alleged missed diagnosis of hyperbilirubinemia.

- **Erinwood Ford Sales Ltd v Ford Motor Co of Canada** – Counsel on a successful injunction by local car dealership to preclude the termination of a Dealer Service Sales Agreement by the franchisee Ford.
- **Genra Canada Investments Inc v 724270 Ontario Ltd** – Counsel on the enforcement and receivership of leasehold mortgages registered against luxury residential apartments complicated by extensive tenant...
- **EJ v Canada (Minister of Public Safety and Emergency Preparedness)** – Counsel on a successful motion to stay a removal order of applicant refugees to St. Lucia.
- **Inquest into the Death of Lisa Shore** – Counsel to a physician at a Coroner's Inquest into the death of Lisa Shore caused by probable complex drug interaction leading to cardiac and respiratory...
- **Millgate Financial Corp v BF Realty Holdings Ltd; Canadian Broadcasting Corp. Pension Plan (Trustee of) v BF Realty Holdings Ltd** – Counsel to successful defendant on a trial of an issue involving a corporate restructuring of all or substantially all of a subsidiary's assets to secure...
- **Broker v SCOPE Clinic** – Counsel to a physician and clinic against an allegation of discrimination with respect to services because of disability.
- **MJ and EJK v Canada (Minister of Public Safety and Emergency Preparedness)** – Counsel on a successful motion to stay a removal order of applicant refugees to South Korea.

#### SELECT PUBLICATIONS AND PRESENTATIONS

- **22nd Estates and Trusts Summit (Day One)** – Anne E. Posno will be at the Law Society of Ontario's 22nd Estates and Trusts Summit. She will be sharing her expert insight on the latest developments for estate, trust, and capacity/elder law litigation.
- **The Conduct of Examinations for Discovery** – Anne Posno will be sharing her expertise on Victory Verbatim's panel discussion regarding the conduct of examinations for discovery.
- **Oppression Remedy and Family-Held Corporation** – Anne E. Posno authored a chapter that appeared in *Key Developments in Estates and Trusts Law in Ontario, 2017-2018 Edition*, edited by Melanie A. Yach. The chapter discusses significant oppression cases involving family-held corporations.
- **Outcry may curtail police social media surveillance** – Anne Posno and Ahmad Mozaffari co-authored the article Outcry may curtail police social media surveillance which appeared in the November 18, 2016 issue...
- **Recent Court of Appeal Decisions with Application to Estates & Trusts Law** – Anne Posno authored a chapter that appeared in *Key Developments in Estates and Trusts Law in Ontario, 2015-2016 Edition*, edited by Melanie A. Yach. The chapter discussed recent court of appeal decisions that had applications to Estates & Trusts Law.
- **The Time is Right to Start Planning Your Estate** – Anne E. Posno co-authored the article The Right Time to Start Planning Your Estate appeared on TheGlobeandMail.com on March 1, 2016. The article provides...
- **Safeguarding Real Estate Transactions 2015** – Anne Posno led a session regarding fraud at the Transactions 2015 Conference held November 24th for the Law Society of Upper Canada. Additionally...

- **Critical Issues in Health Law: Case Law and Legislation Updates –** Nina Bombier and Anne E. Posno presented at the OBA PD Program.
- **The Problems with Wrongful Life, and various damages implications: There should be no cause of action owed to a future fetus by a physician providing medical treatment to a mother –** Anne Posno presented her paper at the 4th Annual Update on Personal Injury Law and Practice for Osgoode Professional Development.

## BLOG POSTS

- **Privacy includes freedom from unwanted scrutiny – even in a public place** – In *R v Jarvis*, the Supreme Court of Canada (“Court”) convicted a high school teacher of voyeurism under section 162(1)(c) of the *Criminal Code*. Mr. Jarvis used a concealed camera, inside a pen, to secretly video record female teenage students in common areas of a school. The video focused on their faces, upper bodies and breasts.
- **Cowper-Smith v Morgan: The Supreme Court Renovates Proprietary Estoppel** – Lord Denning once said that estoppel is a house with many rooms. In December 2017, in *Cowper-Smith v Morgan*, 2017 SCC 61, the Supreme Court of Canada undertook some significant renovations to an important, but little used, room in that house: proprietary estoppel. And just like your neighbour’s renovations to build their monster home can have a real impact on your property, this is a decision that has impacts well beyond the particular facts of that case.
- **Breach of Privacy: "Psychological Battery"** – Following years of debate in Ontario, in 2012, our Court of Appeal officially recognized breach of privacy as an independent common law tort, but subject to modest damages. Two recent breach of privacy cases significantly departed from the recommended range of damages, and awarded amounts that materially exceed the top award proposed by the Court of Appeal.
- **Interest Act Protection Applied to Promissory Note** – The Ontario Court of Appeal ruled in *P.A.R.C.E.L. Inc. v. Acquaviva*, 2015 ONCA 331 that section 8 of the Interest Act may apply to a promissory note even where it is not directly secured by a mortgage.
- **Reprisal Triggers 60-day Time Limit to Seek Protection under Whistle Blower Legislation** – In a judicial review, the Federal Court upheld the decision of the Public Sector Integrity Commissioner (Commissioner) not to investigate a complaint under whistle blower legislation – the Public Servants Disclosure Protection Act, S.C. 2005 c. 46 (Act) -- on the grounds of a 6-year delay.
- **Investigation into Bell's Targeted Ad Program Identifies Surprising Findings** – In summer 2013, Bell announced the November launch of its Relevant Ads Program (RAP). RAP involved the use of Bell customer personal information for the purpose of delivering targeted ads to Bell customers. Bell would charge a fee to advertisers engaged in the program.
- **Unjust Enrichment Reversed On Appeal – Deprivation Not Sufficient** – At trial, the Judge held that the plaintiff and the defendant real estate agents should share the 10% commission on the sale of a plaza and gas station.

- **Court of Appeal Rules PHIPA Does Not Oust Common Law Tort of Breach of Privacy** – On an appeal from a Rule 21 motion, the Court of Appeal ruled that the *Personal Health Information Protection Act*, S.O. 2004, c. 3, Sch. A (*PHIPA*) does not create an exhaustive code precluding a civil action for intrusion upon seclusion.
- **Ontario Judge Applies Correctness Standard to Condominium Act Arbitrations** – On an appeal from an arbitration under the Condominium Act, in *90 George Street Ltd. v. Ottawa Carleton Standard Condominium Corporation No. 815*, 2015 ONSC 336, Justice Patrick Smith applied a correctness standard of review.
- **Racist Will Thrown Out for Being Contrary to Public Policy** – An Ontario decision has expanded the application of public policy to void a will, and in so doing has raised concerns of floodgates and abuse. In *Spence v. BMO Trust Company*, 2015 ONSC 615, Justice Gilmore determined that the deceased, who was black, disinherited his adult daughter because she had a child with a Caucasian man – "a clearly stated racist principle".

### SELECT NEWS ARTICLES

- **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.
- **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 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.
- **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.
- **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.
- **20 Lenczner Slaght Lawyers Recognized in 2015 Lexpert Directory** – Recognized by Canadian Legal Lexpert® Directory as leading practitioners.

- **Privacy class actions taking off - Volume of information collected, breaches cited as key factors** – Anne Posno was quoted in the April 20, 2015 issue of Law Times on privacy class actions.
- **Ontario court nullifies minister's will for racism after he cuts out daughter** – Anne Posno was quoted in the Lawyers Weekly on February 27, 2015 in relation to a recent Ontario Superior Court decision in *Spence v. BMO Trust Company*, 2015 ONSC which deals with expanding application of public policy to void a will, and in so doing has raised concerns of floodgates and abuse.
- **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 Increases Rankings in 2014 Lexpert Directory** – Canada's leading litigation practice continues to add new names to the list.
- **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

- TEP (Trusts Estates Professional) Designation  
STEP Canada
- Canadian Bar Association
- Ontario Bar Association
- The Advocates' Society  
Member-at-Large of the Estates Litigation Practice Group