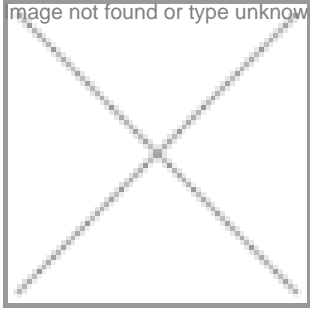


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Education

Dalhousie University (1996) LLB
University of Manitoba (1992) BA
(Honours)

Bar Admissions

Ontario (1998)

Practice Areas

Appeals
Arbitration
Class Actions
Commercial Litigation
Professional Liability and Regulation
Public Law
Securities Litigation

Contact

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Scott Rollwagen

SCOTT ROLLWAGEN is the research partner at Lenczner Slaght.

Scott provides our clients with strategic advice and analysis to solve complex legal problems quickly and effectively. He crafts creative solutions that are tailored specifically to each unique litigation objective.

Prior to joining Lenczner Slaght, Scott spent 15 years with a major national law firm, honing his skills in legal analysis and argument. He has played an instrumental role in many high-profile and precedent-setting cases involving banking, corporate oppression, insolvency and restructuring, securities, pensions, derivatives, auditors' negligence and other complex commercial disputes – at all levels of court, including the Supreme Court of Canada.

Scott also brings extensive corporate advisory experience to our firm. He has guided banking and insurance clients on the legal dimensions of providing cross-border financial services and has advised boards of directors during contested takeover bids. In addition, he has significant public law expertise, including in cases involving aboriginal issues.

Drawing on his deep knowledge of the law, Scott has contributed articles on a wide range of topics to legal publications.

SELECT CASES

- **Reddy v 1945086 Ontario Inc** – Counsel to the Vendors of a multi-tower condominium project in a claim alleging breach of contract.
- **The Guarantee Company of North America v Royal Bank of Canada** – Counsel to GCNA in a priority dispute with a secured creditor in the context of a receivership. Successfully overturned a body of prior jurisprudence, in an appeal heard by a five-judge panel of the Court of Appeal for Ontario, and established that deemed trust claims under the *Construction Lien Act* survive bankruptcy.
- **6524443 Canada Inc v Toronto (City)** – Counsel to the Appellant Brookfield on appeal at the Ontario Court of Appeal seeking leave to Appeal from an Arbitration Award.
- **Google Inc v Equustek Solutions Inc** – Counsel to Google in an appeal to the Supreme Court of Canada in a novel case regarding the limits to be placed on internet injunctions granted against...

- **The Association of Justices of the Peace of Ontario v Ontario** – Counsel to the AJPO in a successful application for judicial review of the Ontario government's response to a judicial remuneration commission. An...
- **407 ETR Concession Company Limited v Day** – Counsel to the 407 ETR in a successful motion and appeal to determine a question of law that no limitation period expired prior to the commencement of the...
- **World Bank Group v Wallace** – Counsel to an international organization in an appeal at the Supreme Court of Canada relating to the immunities of international organizations in criminal...
- **Ivanhoé Cambridge II Inc v The Regional Municipality of York** – Counsel to the applicant in a judicial review application arising out of the decision of the Regional Municipality of York to modify and approve an...
- **Livent Inc v Deloitte & Touche LLP** – Counsel to Deloitte & Touche LLP for the appeal to the Court of Appeal and the Supreme Court of Canada from a trial judgment awarding substantial...
- **Nova Growth Corp v Boxer** – Counsel for defendants in a lengthy commercial trial involving claims for an interest in the Niagara Falls casino. Lenczner Slaght defeated a range...

SELECT PUBLICATIONS AND PRESENTATIONS

- **OBA Construction and Infrastructure Law Section** – Scott Rollwagen will share his expertise on the panel *Construction Trusts: A?1 Asphalt and Competing Perspectives from the Construction and Insolvency Bars*. He will explore the implications of the Ontario Court of Appeal decision in *The Guarantee Company of North America v Royal Bank of Canada* and provide insight on how it will impact both the construction and insolvency bars.
- **Alive and well: Construction Lien Act deemed trust after bankruptcy** – Matthew Lerner and Scott Rollwagen co-authored the article *Alive and well: Construction Lien Act deemed trust after bankruptcy* in *The Lawyer's Daily* February 8, 2019 edition. They discuss the recent decision in *Guarantee Company of North America v Royal Bank of Canada* that has upset the long-standing conventional wisdom among bankruptcy and insolvency practitioners in Ontario about the fate of provincially-created statutory trusts in bankruptcy.
- **Are courts of appeal becoming Bleak Houses?** – Scott Rollwagen's article *Are courts of appeal becoming Bleak Houses?* appeared in the October 16, 2017 issue of *Law Times*. Scott discusses the serious implications of Canadian appellate courts' steadily increasing willingness to defer to first instance decision-makers.
- **Is airline overbooking putting contract law up in the air?** – This article authored, by Scott Rollwagen, appeared in *The Lawyer's Daily* on May 30, 2017. This article discussed how recent media coverage of problems encountered by airline passengers on overbooked flights has made contract law unusually relevant.
- **The Evolution of Complex Litigation** – Shara Roy and Scott Rollwagen joined an expert panel for *The Evolution of Complex Litigation* webinar with the Canadian Corporate Counsel Association on...
- **Getting the Deal Through - Securities Litigation 2015 - Canada** – Scott Rollwagen, Shara Roy and Linda Fuerst authored the Canadian chapter in the publication *Getting the Deal Through - Securities Litigation 2015*.

- **Quistclose Trusts at the Court of Appeal** – Quistclose Trusts at the Court of Appeal

BLOG POSTS

- **Orphan Well Association v Grant Thornton Ltd: The Supreme Court Pivots on the Enforceability of Environmental Claims in Bankruptcy** – The Supreme Court of Canada today released its long-awaited decision in *Orphan Well Association v Grant Thornton Ltd*. The Court reversed a decision of the Alberta Court of Appeal that allowed the trustee of a bankrupt oil and gas company to sell its profitable wells and disclaim unprofitable ones, leaving the public to bear the end-of life liability associated with those wells.
- **Don't Believe What You've Heard: Provincial statutory trusts do survive bankruptcy** – A five-judge panel of the Court of Appeal for Ontario has upset the long-standing conventional wisdom among bankruptcy and insolvency practitioners in Ontario about the fate of provincially-created statutory trusts in bankruptcy.
- **UKSC Dials Back Gains-Based Contract Damage Awards** – The law of contracts has been around for a very, very long time. Which is why it is important to take notice when a major appellate Court finds it necessary to restate the applicable principles, if only to settle the law concerning what may appear to be a narrow damages point.
- **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.
- **The UK Supreme Court Revisits "But for" Causation in Economic Negligence Cases** – "If my grandmother had wheels, she'd be a wagon" –Yiddish proverb
- **The Supreme Court Puts Down its Legal Dictionary** – Sometimes small disputes about technical matters unearth deeper truths about how the law works. This happened in a decision released on January 27, 2017 by the Supreme Court of Canada. *Sabean v Portage La Prairie Mutual Insurance Co* on its face concerned a narrow issue of interpretation defining amounts payable under automobile insurance policies. In resolving this issue, the Court bumped into a much more general issue concerning whether and how jurisprudence influences the meaning of words used in private contracts.
- **Commercial Law Backwards and Forwards: The Supreme Court Dials Back the Remedy of Rectification** – Kierkegaard famously observed that life can only be understood backwards. Many a commercial lawyer finds this easy to understand. It is a reality of modern commercial life that increasingly complex and sophisticated transactions can have implications that are not understood or anticipated when they are executed, but only become clear later, and in hindsight. This may especially be the case where complex transactions need to be executed quickly and in real time.

- **At the Boundaries of Commerce, Concealment, and Common Sense: Royal Bank of Canada v Trang** – “Privacy is something you can sell, but you can't buy it back.”
- **Plaintiffs Hit The Jackpot at the Ontario Court of Appeal** – At the risk of stating the obvious, gambling is unpredictable. Most people would agree that law is different. We think of law as being a predictable discipline governed by rules. Or at least we want to think that it is. A recent decision of the Ontario Court of Appeal—one that fittingly involves gambling—reminds us, however that predictability is not the only principle that courts value.
- **The Admission of Expert Evidence: The Role of Impartiality** – It is commonly accepted that the evidence of expert witnesses must be impartial and that they owe a duty to the court to give fair, objective and non-partisan opinion evidence.
- **A change in law, but not in fact?** – Law and fact, deference and correctness seem no less muddled than ever, as judges begin to interpret the Supreme Court's decision in *Sattva Capital Corp v. Creston Moly Corp*, 2014 SCC 53. In *Sattva Capital*, the Court held that pure contractual interpretation matters generally raise issues of mixed fact and law requiring deference, unless it is possible to clearly identify extricable issues of law.

SELECT NEWS ARTICLES

- **Top 10 and More Deals** – Canada's leading litigation firm is proud to have acted in one of Lexpert's Top 10 Deals of 2018. *Algoma Steel Inc.* was featured in the February issue of Lexpert Magazine as one of the most impactful deals in Canada last year. Lenczner Slaght represented GIP Primus, L.P. and Brightwood Loan Services L.L.C. in connection with the sale of the port assets with a team consisting of Peter Griffin, Monique Jilesen, Scott Rollwagen, Matthew Lerner, Christopher Trivisonno, Robert Trenker.
- **Provincially created trusts deemed valid** – Matthew B. Lerner and Scott Rollwagen were interviewed by Law Times in their featured story on the Court of Appeal's recent landmark decision in *The Guarantee Company of North America v Royal Bank of Canada*. The decision upset the long-standing conventional wisdom among bankruptcy and insolvency practitioners in Ontario about the fate of provincially-created statutory trusts in bankruptcy. Matt and Scott acted for the successful appellant, The Guarantee Company of North America.
- **Lenczner Slaght Raises over \$17,000 for Covenant House Toronto** – On February 7, 2018, our lawyers participated in the Covenant House Guts + Glory Obstacle Challenge and fundraised over \$17,000 which will go to providing health care, food, shelter, and clean clothes to at-risk, homeless and trafficked youth.
- **Top 10 Business Decisions of 2017** – *Google v. Equustek Solutions*, 2017 SCC 34 is ranked second in Lexpert's Top 10 Business Decisions of 2017. Lenczner Slaght's William C. McDowell and Scott Rollwagen are mentioned as counsel to Google Inc.
- **SCC takes restrictive approach in rectification case** – Scott Rollwagen was quoted in the Canadian Lawyer article *SCC takes restrictive approach in rectification case* on December 22, 2016.

- **Court opens door to extending liability to gamblers** – Scott Rollwagen speaks on *Paton Estate v. Ontario Lottery and Gaming Corporation* in the Law Times article *Court opens door to extending liability to gamblers* on October 10, 2016.
- **Supreme Court upholds World Bank's Immunity** – The Supreme Court of Canada has ruled that the World Bank cannot be compelled to produce internal documents from an investigation into foreign corruption that resulted in the Royal Canadian Mounted Police laying criminal charges in Canada.
- **Supreme Court allows blocked merger in landfill case** – Scott Rollwagen was quoted in the Canadian Lawyer in regards to the Supreme Court of Canada ruling in *Tervita Corp. v. Canada (Commissioner of Competition)*.
- **High-profile partners join Lenczner Slaght** – Canada's leading litigation practice gains two new widely admired lawyers.

PROFESSIONAL ACTIVITIES

- Canadian Bar Association
- Ontario Bar Association
 - Civil Litigation Section
 - E-Discovery Section