



Stephen Brown-Okruhlik

Toronto

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education and year of call

- Called to the Ontario bar - 2014
- University of Ottawa, JD, *cum laude* - 2013
- University of Toronto, MA - 2009
- McGill University, BA (Hons) - 2007

practice areas

business litigation
class actions
corporate governance
fraud law
international arbitration
securities litigation
restructuring and insolvency
litigation

profile

Stephen is a partner in the firm's Litigation and Dispute Resolution Group. He has a broad commercial litigation practice with a focus on financial services, bankruptcy and insolvency, securities litigation and corporate law disputes. Stephen has appeared before all levels of Court in Ontario and sought leave to appeal to the Supreme Court of Canada. He regularly represents clients before the Commercial List Court in Toronto. He has experience in a broad range of litigation matters, including creditors' remedies, corporate fraud, shareholder disputes, real property disputes, plans of arrangement, jurisdiction challenges, injunctions, the enforcement of foreign arbitral awards and cross-border insolvencies. He has acted for creditors, court officers and DIP lenders in insolvency proceedings under the *Bankruptcy and Insolvency Act* and the *Companies' Creditors Arrangement Act*. Stephen has also represented clients before international arbitration panels and various administrative tribunals, including the Ontario Securities Commission, the Financial and Consumer Affairs Authority of Saskatchewan.

Stephen holds a JD from the University of Ottawa as well as a BA from McGill and a Master's degree from the University of Toronto. Stephen was active in his law school's moot court program. His team placed second in the World Trade Organization Moot Competition in 2012. Stephen won the Top Orator prize in the grand final round of the competition in Montpellier, France. He also competed in the 2013 Canadian Corporate and Securities Law Moot.

Stephen is actively involved in McMillan's Brazil Desk initiative.

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directorships and professional associations

- Toronto Lawyers Association – Sponsorship Committee
- Ontario Bar Association - Insolvency Section Executive Committee
- Canadian Bar Association
- Canadian Counsel for the Americas

representative matters

Representative matters that Stephen has been involved in:

- Representing a US landlord in a contested claim against the estate of a Canadian telecoms giant in connection with a Texas lease.
- Representing a European luxury sports car manufacturer in an action by its former Canadian distributor for breach of contract and other causes of action related to the termination of a distribution agreement.
- Representing the former CFO of a multi-national aerospace parts manufacturer in a claim for alleged breach of his fiduciary duty to his former employer and alleged breach of reps and warranties as a vendor of the company under a share purchase agreement.
- Representing a lender in a contested application to appoint a receiver and to approve a sale process where a third party claimed a constructive trust over the debtors' property in separate litigation.
- Representing equity holders in the CCAA proceeding of a Canadian retail giant.
- Representing a major Canadian cannabis producer before the Ontario and Saskatchewan securities regulators in connection with its hostile takeover bid for another cannabis producer.
- Representing a US based DIP lender in a cross-border insolvency proceeding.
- Representing a US investment bank in a CCAA proceeding before the Alberta Court of Queen's Bench to enforce the bank's contractual rights.
- Representing a general contractor in an action against a regional government before the Ontario Superior Court of Justice for the wrongful termination of a contract for the construction of a water storage facility.
- Representing a Turkish company with a foreign arbitral award in enforcement and recognition proceedings against a foreign state in Ontario before lower and appeal courts.
- Representing a tenant in a ground lease before the Ontario

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- Court of Appeal in a dispute regarding a rent reset provision.
- Representing a Chinese manufacturer in an arbitration pursuant to the Singapore International Arbitration Centre rules in a contract termination dispute.
- Defending a national grocery chain in an action by the receiver of an insolvent service provider for unpaid fees.
- Representing the Ontario court-appointed receiver in a cross-border insolvency involving assets in Colombia.
- Defending an Indian company in an emergency anti-suit injunction motion before the Ontario Superior Court of Justice.
- Representing an Indian company in a motion to stay proceedings brought by a Canadian litigant before the Ontario Superior Court of Justice for lack of jurisdiction.
- Defending a landlord before the Ontario Court of Appeal and Ontario Superior Court of Justice in a lease termination dispute.
- Representing the receiver and trustee-in-bankruptcy in litigation against contractors and former management of an insolvent Canadian service provider.
- Defending an application to enforce a tail provision in a financial services contract against an insolvent company before the Alberta Court of Queen's bench.
- Representing the foreign manufacturer and distributor of a tower crane at an Ontario coroner's inquest.
- Representing a junior mining company resisting an application for certain easement rights on its property before the Ontario Mining and Lands Commissioner.

Selected cases Stephen has been involved in:

- *Re Nortel Networks Corporation et. al.*, 2019 ONSC 3010 – Appealed the decision of a claims officer in a major cross-border insolvency proceeding involving the interpretation of a damages provisions under a lease governed by Texas law and a guarantee governed by New York law.
- *Unlimited Motors Inc. v. Automobili Lamborghini SpA*, 2019 ONSC 1423 – Successfully resisted a motion by the plaintiff to avoid administrative dismissal of a \$30,000,000 claim related to the termination of a distribution agreement.
- *Noranco Inc. v. MidOcean Partners III, L.P., et. al.*, 2019 ONSC 1173 – Successfully brought a motion to enforce the right of a former CFO of a multi-national aerospace parts manufacturer to receive advance payment of legal costs to defend an action by his former employer for breach of his fiduciary duty to the company, among other things.

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- *American Iron & Metal Inc. v. 1340923 Ontario Inc. et. al.*, 2018 ONSC 2810 – Overcame the objections of a third party to the appointment of a receiver and the approval of a sale process where the third party claimed a constructive trust over the debtors' property in separate litigation.
- *Kingdom Construction Limited v. Regional Municipality of Niagara*, 2018 ONSC 29 – obtained \$2.37M judgment for a contractor that was unlawfully terminated by the owner of a construction project.
- *Re Aurora Cannabis Inc.*, 2018 ONSEC 10 – successfully represented a major Canadian cannabis producer in a joint hearing before the Ontario Securities Commission and the Financial and Consumer Affairs Authority of Saskatchewan in an application for an order cease trading a shareholder rights plan as well as other relief, and successfully resisted related cross-applications.
- *Belokon v. Kyrgyz Republic*, 2016 ONCA 981 - appeal to the Ontario Court of Appeal regarding issues of the interpretation of a contract governed by foreign law and principles of purchase money resulting trusts.
- *Entes v Kyrgyz Republic*, 2016 ONSC 7221 - obtained recognition in Ontario of a foreign arbitral award in favour of a Turkish company against a foreign state.
- *Belokon v. Kyrgyz Republic*, 2016 ONSC 4506 – represented a foreign judgment creditor in an application for enforcement against certain assets in Ontario where beneficial ownership was in dispute.
- *Board of Regents of Victoria University v. GE Canada Real Estate Equity*, 2016 ONCA 646 – successfully resisted appeal of a lower court decision overturning a commercial real estate rent reset arbitral award.
- *Octagon Capital Corp. v. Niko Resources Ltd.*, 2016 ONSC 3946 – successfully defended a company in an application to enforce a tail provision in a financial services contract.
- *2249740 Ontario Inc. v. Morguard Elgin Ltd.*, 2015 ONCA 605 – successfully appealed a summary judgment decision, including findings of bad faith, against a landlord in relation to the termination of a lease.
- *SHS Services Management Inc./Gestion Des Services SHS Inc.*, Re, 2015 ONSC 2798 – motion to compel sub-contractors of insolvent service provider to remit funds to court-appointed receiver.
- *Veritas Investment Research Corp. v. Indiabulls Real Estate Ltd.*, 2015 ONSC 6040 – successfully resisted an emergency anti-suit injunction motion to enjoin proceedings before the Delhi High Court on behalf of two Indian

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companies.

awards and rankings

- Werner Zdouc Prize for Top Oralist in the 2012 World Trade Organization Moot Competition, Montpellier, France

media mentions

- "[Top 10 Business Decisions of 2018](#)", *Lexpert Magazine*, February 14, 2019
- "[Canada's High Court Won't Weigh in on Bid to Enforce Award](#)", *Law360*, June 22, 2017
- "[RMB adquiere minera Seafield por usd 15 millones](#)", *Lexlatin*, May 1, 2016

publications

March 23, 2020

Unbearable Lite-ness: Lenders' Remedies in the Age of Missing Covenants
Litigation Bulletin

January 2020

The Supreme Court of Canada Will Revisit the Duty of Good Faith Six Years After *Bhasin*
Litigation Bulletin

January 2020

"Can I Tell You Something in Confidence?" Legal Privilege in M&A Transactions
Litigation Bulletin

January 2020

Challenges and Opportunities for Canadian Investors in Brazilian Insolvency Proceedings: Lessons from the IBA's 2019 Global Restructuring Conference
Restructuring and Insolvency Bulletin

November 2019

Amendments to the CCAA, BIA and CBCA Now in Force
Restructuring Bulletin

May 2019

Canadian Corporate & Restructuring Legislation: Changes Could be on the Way
Restructuring, Litigation and Business Law Bulletin

September 2017

A Recipe for Good Governance
Ivey Business Journal

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June 2017

The New Frontier of Jurisdiction: Supreme Court of Canada Upholds Worldwide Injunction Against Google
Litigation Bulletin

February 2017

No Easy Way Around Separate Corporate Personality: Ontario Court Releases its Decision in *Yaiguaje v. Chevron*
Litigation Bulletin

September 2016

Director's Liability: A Worldwide Review (3rd Ed), Chapter on Canada (co-author)
Wolters Kluwer, International Bar Association Series (Edited by Alexander Loos, 2016), ISBN 978-90-411-5835-2

March 2016

Recent Decisions Confirm Broad Powers of Trustees to Examine Witness and Compel Documents Under the BIA
Ontario Bar Association - Insolvency Law Section

December 2015

The Supreme Court of Canada Releases its Decision in the *CIBC v. Green* Trilogy
Litigation Bulletin

January 14, 2015

Constructive Trusts in Insolvency Situations: *Wurth v 1135096 Alberta Ltd* and Related Decisions
Jeffrey Levine and Stephen Brown-Okruhlik, OBA Insolvency Section