

BRETT G. HARRISON*



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Brett Harrison is recognized by Benchmark Canada as a litigation star and as repeatedly recommended in the area of insolvency and financial restructuring by Lexpert. In addition to restructuring and insolvency, Brett's corporate commercial litigation practice is focused on financial services, insolvency, securities, corporate governance and cross-border matters.

Appearing frequently before the Ontario Superior Court (Commercial List) and the Ontario Court of Appeal, Brett represents his clients in disputes relating to the *Companies' Creditors Arrangement Act* and the *Bankruptcy and Insolvency Act*, as well as the *Canada Business Corporations Act* and its provincial counterpart. His clients include companies, boards of directors, creditors, receivers, trustees and purchasers.

Brett has significant experience acting for financial institutions, as both plaintiff and defendant, and provides representation on complex collection, enforcement, and lender liability matters. His experience in cross-border

litigation includes acting for corporate clients as well as financial institutions.

Brett is a leader of the firm's Restructuring & Insolvency Group, and supervises and participates in the firm's delivery of pro bono services in Toronto.

Email: brett.harrison@mcmillan.ca

Expertise: Banking & Finance, Corporate Commercial Litigation, Litigation & Dispute Resolution, Restructuring & Insolvency

LinkedIn: <https://www.linkedin.com/in/brett-harrison-20452ba/>

Location: Toronto

Phone: 416.865.7932

Position/Title: Partner, Corporate Commercial Litigation | Restructuring & Insolvency

Community Involvement:

- As pro bono partner for the Toronto office, Brett supervises and is actively involved in the delivery of pro bono services to the Toronto community.

Directorships & Affiliations:

- Toronto Lawyers' Association – Past President
- American Bar Association – Co-Chair of Content Management Committee
- The American Counsel Association – President
- Pro Bono Law Ontario's Volunteer Lawyers Service

Publications:

- "[Encyclopaedia of International Commercial Litigation](#)," co-author, Wolters Kluwer (May 2021)
- "[Discovery Across the Globe: Obtaining Evidence Abroad to Support US Proceedings](#)", co-editor and author American Bar Association (March 2020)
- "[International Aspects of U.S. Litigation](#)", Chapter VI.B: Foreign Bankruptcy Proceedings: Bankruptcy Code Chapter 15 (March 2017)
- "[Recent Decisions Confirm Broad Powers of Trustees to Examine Witness and Compel Documents Under](#)

- [the BIA](#)", Ontario Bar Association - Insolvency Law Section (March 2016)
- ["The Supreme Court of Canada Recognises a New Duty of Honesty in Contractual Performance"](#), Financier Worldwide (March 2015)
- ["International Discovery: Obtaining Foreign Evidence for Use in a US Trial"](#), American Bar Association Webinar (January 23, 2015)
- ["The use of fairness opinions in a proxy circular"](#), ACC Ontario Securities Committee Newsletter, Volume I, Issue 2 (August 2014)
- ["Enhancing Your Risk Management Capabilities Through Strategic Partnerships"](#), Financier Worldwide (April 2014)
- ["Allocation of Restructuring Costs: Don't Be Caught By Surprise!"](#), Corporate Restructuring Bulletin (November 2010)
- ["Beware – indemnify a Canadian company and you may just find yourself stuck in a Canadian Court"](#), Cross-Border Litigation Bulletin (October 2010)
- ["Appeal court offers guidance in jurisdictional battles"](#), Law Times (October 4, 2010)
- ["Allocating Restructuring Costs Amongst Creditors: Don't Get Stuck Holding The Bag"](#), Corporate Restructuring Bulletin (September 2010)
- ["Ontario Court of Appeal clarifies enforceability of exclusive jurisdiction clauses"](#), Cross-Border Litigation Bulletin (August 2010)
- ["E-Discovery Around The World"](#), The Practice Litigator (January 2010)
- ["Staying Foreign Parallel Proceedings Just Got Tougher"](#), Cross-Border Litigation Bulletin (October 2009)
- ["A Broker's Word is Its Bond: Verbal Contract Held Binding in UBS v. Sands"](#), Litigation Bulletin (August 2009)
- ["Gathering Evidence in the Great White North: It's not just the weather that will surprise you!"](#), ABA Section of Litigation Committee on Corporate Counsel CLE (February 2009)
- ["It's a Small World After All: Business Litigation in a World Economy"](#), ABA Section of Litigation Committee on Corporate Counsel CLE (February 2009)
- ["Don't Take it to the Limit: Ontario Court of Appeal says Limitation Periods can no longer be extended by Special Circumstances"](#), Litigation Bulletin (October 2008)
- ["International Discovery: Around the World in Ninety Minutes"](#), 2008 ABA Annual Meeting, Section of Litigation and presented at the 2009 ABTL Annual Meeting (August 2008)
- ["The Unusual Suspect – Ontario Court of Appeal Bars Claims of Negligent Investigation against Employers"](#), Employment Litigation Bulletin (July 2008)
- ["Insolvency Along the NAFTA Highways: What You Need to Know"](#), ABA Litigation Section Conference (April 2008)

- "[Exclusion of arbitration appeal rights requires 'final and binding' clause](#)", Lawyers Weekly, Vol. 27 No. 44 (March 2008)
- "[Evidence of the Absent Witness](#)", Osgoode Annual Conference (September 2007)
- "[Comparing E-Discovery in the United States, Canada, the United Kingdom, and Mexico](#)", 2007 Annual Meeting - American Bar Association (August 2007)
- "[Service and Examination of Canadians: The Hague Is Not the Answer](#)", Commercial and Business Litigation (Summer 2007)
- "[Internet Jurisdiction A 'Minimum Contact' Sport For Foreign Defendants Court Adopts U.S. Approach to Resolve Issue of Internet Jurisdiction](#)", Cross-Border Litigation Bulletin (Spring 2007)
- "[House of Lords Holds that a bank owes no duty of care to beneficiaries of MAREVA orders](#)", Financial Services Litigation Bulletin (Spring 2007)
- "The House of Lords concludes that bank owes no duty of care to the beneficiary of freezing orders: Customs and Excise Commissioners v. Barclays Bank plc", Banking and Finance Law Review (Spring 2007)
- "[Focus on Alternative Dispute Resolution China provides guidance on its arbitration law](#)", The Lawyers Weekly (March 20, 2007)
- "Risk Management Module", Canadian Institute of Chartered Business Valuators accreditation course (November 2006)
- "[A Deal is a Deal Top B.C. Court Dismisses Class Action and Upholds Interest Provisions in Credit Card User Agreements](#)", Financial Services Litigation Bulletin (Fall 2006)
- "[Legislative Update - Payday Loans Legislation](#)", Financial Services Litigation - Legislative Update (October 2006)
- "[The New Wave of Equity Committees in Bankruptcy: What Are They and Are They Here to Stay?](#)", International Corporate Rescue, Volume X, Issue X (Fall 2006)
- "[Mining Company Barred from Staking its Claim in an Ontario Court](#)", Cross-Border Litigation Bulletin (August 2006)
- "[When Lending to Investors, Lenders Must Make Sure They Are Not Acting as Advisors](#)", Financial Institution Litigation Bulletin (August 2006)
- "[Recent Ontario Court of Appeal Decision Confirms Importance of Jurisdiction Clauses](#)", Cross-Border Litigation Bulletin (Spring 2006)
- "[Voluntariness of Payments May be Weak Link in Certifying Usury Class Actions](#)", Financial Services Litigation Bulletin (Spring 2006)
- "[Don't Panic and Attorn, as What is Attorned Cannot be Unattorned](#)", Cross-Border Litigation Bulletin (Winter 2006)

- "[Class Actions Target Financial Institutions](#)", Financial Services Litigation Bulletin (November 2005)
- "[Cross-Border Insolvencies: When Should a U.S. Debtor be Filing Ancillary Proceedings in Canada](#)" Newsletter of the Bankruptcy and Insolvency Committee (Fall 2005)
- "[Enforcing US Judgments in Canada](#)", Cross-Border Litigation Bulletin (September 2005)
- "Bank Held liable by Court for Providing Inaccurate Credit Information", Published by International Law Office (July 2005)
- "[A Clause in Time Saves Time, Money and Maybe Even Your Case...How Proper Jurisdiction and Governing Law Clauses May Give You One Less Thing to Worry About in Cross-Border Contracts](#)", Cross-Border Litigation Bulletin (June 2005)
- "[Negative Credit Rating for Customer Causes Negative Impact for Bank](#)", Financial Services Litigation Bulletin (June 2005)
- "[So you Want to Depose a Canadian, Eh?](#)", Cross-Border Litigation Bulletin (April 2005)
- "[Check That Cheque or be Left Holding the Bag](#)", Financial Services Litigation Bulletin (March 2005)
- "[Where do we go from here? Courts will be reviewing receivership orders more closely and insolvency practitioners should be ready to justify the relief sought](#)", CAmagazine (March 2005)
- "Receivership Orders - Where do we go from here?", National Insolvency Review, Vol. 21, Number 6 (December 2004)
- "[How to Stay Canadian Proceedings When You Have a Claim in the United States](#)", Litigation Bulletin (December 2004)
- "Receivership Orders - Where Do We Go From Here?", The Canadian Institute's Advanced Forum on Turnarounds (September 27, 2004)
- "[Ontario Court of Appeal Opens the Door to Enforcement of Non-monetary Judgements](#)", Commercial Litigation Committee, published by DRI's The Business Suit (September 17, 2004)
- "[PIPEDA Six Months Later: Not as Revolutionary as Expected](#)", The Canadian Law Newsletter, Vol.XL No.2 (Fall 2004)
- "[Ontario Court expands enforceability of foreign judgments](#)", The Lawyers Weekly (July 9, 2004)
- "[Court Holds that Trustee Cannot Claim Litigation Privilege. Case Comment on Re Beethoven Honey Products Inc. \(2003\), 67 O.R. \(3d\) 511](#)" Ontario Bar Association Insolvency News (May 2004)
- "[Discovering your limitations - changes for Ontario litigation](#)", Binchmarks column in Playback Magazine (February 2004)
- "[Ontario Radically Amends Limitations Legislation](#)", The Business Suit, a Defense Research Institute Publication (January 2004)
- "[New costs grid: still unpredictable](#)", The Lawyers Weekly (November 28, 2003)
- "Ontario's new Limitations Act heralds a new era of limitations litigation", The Lawyers Weekly

(November 2003)

- "[New Limitations Act Accelerates Litigation Clock](#)", Litigation Bulletin (October 2003)
- "[Enforcing US Judgments In The Great White North](#)", The Canadian Law Newsletter (Fall 2003)
- "[Enforcing US Judgements](#)", Points North (March 2003)
- "[Courts use inherent jurisdiction to fill in the gaps](#)", The Lawyers Weekly (January 17, 2003)
- "Trustee Sells Copyrights", Restructuring Bulletin (November 2002)
- "[How Can You Get Paid When Your Client Goes Bankrupt](#)", Lawyer's Weekly (October 25, 2002)
- "[Mandatory Mediation in Toronto: How it All Works](#)", Litigation Bulletin (July 2001)
- "[Navigating Toronto's New Case Management Program](#)", Litigation Bulletin (June 2001)
- "[Conflicts of Interest, Chinese Walls and the Changing Business of the Law](#)", Business Law International, International Bar Association (2000)
- "Conflicts of Interest, Chinese Walls and the Changing Business of the Law", Business Law International (2000)

Education & Admissions:

Degree: Called to the Ontario bar

Year: 2001

Degree: LLB

University: University of Western Ontario

Year: 1999

Degree: BA (Honours)

University: Huron College, University of Western Ontario

Year: 1995

Media Mentions:

- "[Changes brought about by lockdown may improve our judicial system](#)" by Paul Russell, LegalMattersCanada, May 14, 2020
- "[Lawyers Kick In Funding to Help PBO Centres](#)" by Anita Balakrishnan, Law Times, November 19, 2018
- "[Insolvency Disputes a Growing Area for Litigation Funding](#)" by Dale Smith, Law Times, July 23, 2018
- "[Ontario judges ease the fairness opinion crackdown](#)" by Drew Hasselback, Financial Post, June 11, 2014
- "Commercial deals will feel sting of prolonged U.S. government shutdown" by Charlotte Santry, Legal Feeds, October 2, 2013

- "Banking rules, overtime among key upcoming class actions" by Julius Melnitzer, Law Times, September 2, 2013
- "[Credit card class actions put constitutional issue before Supreme Court of Canada](#)" by Julius Melnitzer, Financial Post, June 5, 2013
- "What seems Fair Sometimes Isn't" by Helen Malloy Hicks, Lexpert Magazine, June 2013
- "Case to consider lawyer's fiduciary duty to client he had 'spousal relationship' with", by Kendyl Sebesta, Law Times, April 30, 2012
- "[Appeal court offers guidance in jurisdictional battles](#)" by Robert Todd, Law Times, October 4, 2010

Rankings & Recognition:

- Recognized by *Best Lawyers in Canada* (2024) as a leading lawyer in the area of Insolvency and Financial Restructuring Law
- Recognized in the *2023 Benchmark Litigation: Canada Guide* as a Litigation Star
- Recognized by *Best Lawyers in Canada* (2023) as a leading lawyer in the area of Insolvency and Financial Restructuring Law
- Recognized in the *2022 Benchmark Litigation: Canada Guide* as a Litigation Star
- Recognized by *Best Lawyers in Canada* (2022) as a leading lawyer in the area of Insolvency and Financial Restructuring Law
- Recognized in the *2021 Benchmark Litigation: Canada Guide* as a Litigation Star
- Recognized by the *Best Lawyers in Canada* (2021) as a leading lawyer in the Insolvency and Financial Restructuring Law
- Recognized in the 2020 Canadian Legal Lexpert Directory as a Repeatedly Recommended lawyer in the area of Insolvency & Financial Restructuring Law: Insolvency Litigation
- Recognized in the 2020 Benchmark Litigation: Canada Guide as a Litigation Star
- Recognized in the 2019 Canadian Legal Lexpert Directory as a Repeatedly Recommended lawyer in the area of Insolvency & Financial Restructuring – Insolvency Litigation
- Recognized in the 2019 Benchmark Litigation Canada Guide as a Litigation Star
- Ranked by Lexpert Guide (2018) as a leading US/Canada Cross-Border Lawyer in Canada
- 2013 International Law Office Client Choice Award in the Litigation category for Canada: Ontario
- Dean's List
- Top Oral Advocate – Wilson National Moot Competition
- Dean Ivan C. Rand Honour society Award for meritorious academic standing and outstanding

contributions to the Faculty of Law

- Genest Murray Advocacy Award

Speaking Engagements:

- A conversation with tomorrow's legal leaders: What does it mean to be an effective lawyer in 2021?, Young Lawyers Summit, Moderator: Brett Harrison, Speaker: Jeffrey Levine

- November 24, 2020

- International Discovery: Obtaining Foreign Evidence for Use in a US Trial, American Bar Association

- March 2016

- Demonstration and Debriefing: Handling the Hostile Witness 10th Annual Conference: Evidence Law for the Civil Litigator, Osgoode Professional Development

- October 29, 2013

Representative Matters:

- Acted as counsel for ESL, the largest shareholder of Sears Canada Inc., in connection with Sears' CCAA proceedings.
- Successfully acted for W.P. Carey on a \$60 million claim against Nortel in its CCAA proceeding. The claim concerned Nortel's guarantee of a lease for Nortel's U.S. subsidiary.
- Successfully defended RBC against a \$10 million lender liability claim (XPG, a Partnership v. Royal Bank of Canada, 2017 ONSC 2598)
- Successfully struck a \$50 million claim against PwC for negligence (NMF-TV Inc. v. PriceWaterhouseCoopers LLP, 2016 ONSC 7739)
- Successfully opposed an injunction brought by a shareholder, director and former CEO for, among other things, oppression (Boni v. Leonardo Worldwide Corporation, 291 A.C.W.S. (3d) 90)
- Represented HB Construction Company Ltd., a wholly owned indirect subsidiary of The Williams Companies, Inc., in connection with its acquisition of certain assets of Comstock Canada Ltd. and its affiliate pursuant to Comstock's restructuring under the Companies' Creditors Arrangement Act (Comstock Canada Ltd. (Re), 2014 ONSC 493)
- Successfully established at Court of Appeal that crown not immune from Letters of Request and clarified the test for their enforcement (Lantheus Medical Imaging Inc. v. Atomic Energy of Canada Ltd., 2013 ONCA 264)

- Represented a syndicate of Canadian Banks, owed over \$350 million, in contesting the Plan of Arrangement proposed by Yellow Media Inc. (2012)
- Successfully pursued the Court of Appeal that PPSA creditor who is unaware of transfer of collateral does not lose priority (Lisec America, Inc. v. Barber Suffolk Ltd., 2012 ONCA 37)
- Successfully established at the Ontario Court of Appeal that no claim exists against employers for negligent investigation. (Correia v. Canac Kitchens, 2008 ONCA 506)
- Successfully defended a Canadian Bank against a multi-million dollar lender liability claim at trial and on appeal (Cameron v National Bank of Canada, 2009 ONCA 707)
- Represented holders of over \$1 billion in bonds contesting the leveraged buyout of BCE Inc. (BCE Inc. (Plan of Arrangement), 2008 QCCS 905 (Que. S.C. [Commercial Division]))
- Successfully defended a Canadian Bank against a \$180 million lender liability claim by an auto parts manufacturer (G.R.W. Industries (1985) Limited, G.R.W. Industries Inc. and Grant Wilson v. The Royal Bank of Canada and Captain Central Holdings (1974) Limited, July 18, 2007)
- Acted for purchaser of the Disney Stores out of restructuring proceedings
- Successfully enforced a guarantee for approximately \$1 million for US lender against the principal of the borrower and had judgment confined by the Ontario Court of Appeal (FL Receivables Trust 2002-A v. Cobrand Foods Ltd., (2007), 85 O.R. (3d) 561 (Ont. C.A.))
- Made new law in defending an employer from claim for negligent investigation (Correia v. Canac Kitchens, 2008 ONCA 506 (Ont. C.A.))

Industries: Banking & Finance

Practices: Corporate Commercial Litigation, Restructuring & Insolvency