



## Brett G. Harrison

Co-Chair, Insolvency Litigation  
Toronto

416.865.7932  
brett.harrison@mcmillan.ca

### education and year of call

- Called to the Ontario bar - 2001
- University of Western Ontario, LLB - 1999
- Huron College, University of Western Ontario, BA (Hons.) - 1995

### practice areas

securities litigation  
business litigation  
security enforcement  
restructuring and insolvency  
litigation  
cross-border restructuring  
corporate governance  
fraud law

### industries

banking, finance and insurance  
private equity - buyouts & venture  
capital investment

### profile

Brett is Co-Chair of the Insolvency Litigation Group and is cross-appointed to the Commercial Litigation and Corporate Restructuring Departments. He has a commercial litigation practice which focuses on restructuring, financial services, securities, corporate governance and cross-border matters. Brett is also the National Marketing Partner for the Litigation and Employment Department.

Brett frequently appears as counsel before the Ontario Superior Court (Commercial List) and the Ontario Court of Appeal in proceedings pursuant to the Companies' Creditors Arrangement Act, the Bankruptcy and Insolvency Act and the federal and provincial Business Corporations Acts. He has acted for companies, boards of directors, creditors, receivers, trustees and purchasers. Brett is a member of the Commercial List Users Committee, a joint committee of the bar and bench established to consider and suggest improvements to the Toronto Commercial List Court.

Brett has significant experience acting for financial institutions, both as plaintiff and defendant. He has acted on a number of complex collection and enforcement matters as well as lender liability matters. Brett is the editor of the firm's Financial Services Litigation Bulletin.

He has extensive experience dealing with cross-border litigation issues for both corporate clients and financial institutions. He is an active member of the American Bar Association where he currently serves in leadership as a member of the Membership and Marketing Committee, and the American Counsel Association where he currently serves as Vice-President Elect. Brett is the editor of the firm's Cross-Border Litigation Bulletin.

Brett is actively involved in the local legal community and is

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currently the President of the Toronto Lawyers' Association, which has represented the interests of lawyers practicing in Toronto for over 130 years. Brett is also actively involved in giving back to the community. As the Pro Bono Partner for McMillan's Toronto office, Brett supervises and is actively involved in the delivery of Pro Bono services to the Toronto community.

## directorships and professional associations

- Toronto Lawyers' Association – President
- The American Counsel Association – President Elect
- American Bar Association – Co-Chair of the 2021 ABA Annual Meeting Committee and member of the Membership and Marketing Committee, Section of Litigation
- Commercial List Users Committee (Past Member)
- Pro Bono Law Ontario's Volunteer Lawyers Service

## 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 stuck 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

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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 235)
- 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.))

## awards and rankings

- Recognized by the Best Lawyers in Canada (2021) as a leading lawyer in the Insolvency and Financial Restructuring Law
- Recognized in the 2019 and 2020 Canadian Legal Lexpert Directory as a Repeatedly Recommended lawyer in the area of Insolvency & Financial Restructuring Law: Insolvency Litigation
- Recognized in the 2019 and 2020 *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](#)
- Top Oral Advocate – Wilson National Moot Competition

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- Dean Ivan C. Rand Honour society Award for meritorious academic standing and outstanding contributions to the Faculty of Law
- Dean's List

## 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.
- Brett is also Co-Chair of the Give a Day Campaign helping to raise funds for the Steven Lewis Foundation and Dignitas International to help fight AIDS in Africa.

## 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 Mallovy 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

## publications

### March 2020

Canadian Chapter of "Discovery Across the Globe: Obtaining Evidence Abroad to Support US Proceedings"  
American Bar Association

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**October 2019**

When is Mediation Mandatory? A Comparative Analysis of  
Mandatory Mediation Across Canada  
Litigation Bulletin

**March 2017**

International Aspects of U.S. Litigation  
Contributing Author  
Chapter VI.B: Foreign Bankruptcy Proceedings: Bankruptcy  
Code Chapter 15

**March 2016**

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

**March 2015**

The Supreme Court of Canada Recognises a New Duty of  
Honesty in Contractual Performance  
Financier Worldwide

**January 23, 2015**

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

**2000**

Conflicts of Interest, Chinese Walls and the Changing Business  
of the Law  
Business Law International, International Bar Association

**presentations**

**March 2016**

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