

Anu Koshal

Associate

Toronto

akoshal@mccarthy.ca

t. 416-601-7991

Bar Admission

Ontario 2014

Law School

University of Toronto

Practices

Disputes
Appellate Litigation
Corporate Commercial Litigation
Professional Liability
Competition Litigation
Class Actions
Products Liability
Securities Litigation
Alternative Dispute Resolution

Industries

Healthcare

Anu Koshal is a member of our Litigation Group in Toronto. He specializes in complex, high-stakes disputes.

Anu has appeared as lead counsel in trials, appeals, and before administrative tribunals. He has appeared before all levels of court in Ontario, including the Court of Appeal for Ontario and the Supreme Court of Canada, and in leading cases across a variety of industries and practice areas. In 2018, Anu was recognized by *Lexpert* as a “Leading Lawyer to Watch” in the area of corporate and commercial litigation.

Anu has experience in product liability disputes. A member of our firm’s National Retail and Consumer Markets Group, he has defended leading multi-national companies against allegations of failure to warn, defective product, and misleading advertising in claims seeking hundreds of billions of dollars in damages. He has also represented clients facing time-sensitive disruptions to their supply chain, as well as in disputes over the supply and distribution of goods.

Anu also has experience in shareholder disputes. He has represented individuals and corporations in allegations of breaches of fiduciary duty, oppression, and derivative actions. Anu was counsel in *Estate of John Wood v. Arius 3D et al*, a leading Ontario case on the personal liability of directors and officers under the oppression remedy (cited with approval by the Supreme Court of Canada in *Wilson v. Alharayeri*, 2017 SCC 39). Anu recently served as counsel to the Canadian Chamber of Commerce at the Supreme Court of Canada in *Christine DeJong Medicine Corporation v. DBDC Spadina Inc*, 2019 SCC 30, a leading case on when corporations can be found civilly liable for the wrongdoing of their directors and officers. In deciding that case, the Supreme Court expressly adopted the clarification in the law proposed by the Chamber of Commerce, limiting the scope of when corporations can be found liable for damages.

Anu has an active appellate practice. He has acted for clients in precedent-setting cases in various areas of law including professional liability, shareholder disputes, and the law of mortgages. He recently acted as counsel for a national anti-poverty organization in *Canada Without Poverty v. Attorney General of Canada*, 2018 ONSC 4147, a decision which struck down as unconstitutional a provision of the *Income Tax Act* which prohibited charities from engaging in non-partisan political speech. The Canadian Broadcasting Corporation described this case as a “[landmark](#)”, and a “[David versus Goliath](#)” win for the client.

In addition to his practice, Anu is active in teaching and writing in the profession. He teaches Trial Advocacy at the University of Toronto Faculty of Law and has published on topics including contract law, civil procedure, and class actions. In 2012 he received the Harvey T. Strosberg Prize in Class Actions for his writing in this field. He also

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regularly contributes to *pro bono* matters, including representing at-risk children from overseas apply for refugee status before the Immigration and Refugee Board.

Anu received his law degree with Honours from the University of Toronto Faculty of Law, a Ph.D. in literature and philosophy from Duke University, and an M.A. from the University of Chicago. He is a member of the Advocates' Society, the Law Society of Upper Canada, the Canadian Bar Association, the Ontario Bar Association, the American Bar Association, and the South Asian Bar Association.

Representative matters:

Anu's experience includes acting for:

- A leading consumer products company in claims by Provincial governments seeking billions of dollars in damages for failure to warn and defective product;
- A leading utility company in a contractual dispute with a renewable energy company;
- A discount real estate brokerage in a multi-million dollar price-fixing claim against the Toronto Real Estate Board and the Canadian Real Estate Association;
- A Schedule 1 bank in its defence of a \$5 billion class action brought by merchants relating to the operation of the Visa and MasterCard networks in Canada;
- A leading consumer products company in a \$50 million class action brought by Ontario farmers;
- Numerous physicians in defence of medical malpractice claims;
- A public company in a dispute over a supply and distribution agreement;
- A private company in a solicitor's negligence claim against a law firm.
- A private company in a contractual dispute against a Fortune 500 company.
- An auto-parts manufacturer in a property dispute over its manufacturing plant.
- A leading software company in a multi-million against a Crown Corporation;
- A leading mining services company in an oppression claim arising from a joint venture agreement;

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- A former CEO in an oppression claim against directors and officers of a publicly traded company;
- A public agency in a multi-million dollar dispute against a leading engineering and construction firm; and
- A start-up company in a claim for breach of contract, breach of confidence, and breach of fiduciary duty arising from the theft of confidential information.

Recent Publications:

- "The Corporate Identification Doctrine Clarified Through an Intervention at the Supreme Court of Canada," *Canadian Appeals Monitor*, May 22, 2019
- "Ontario Court of Appeal Clarifies the Scope of Lawyer's Duty to Advise on Damages," *Canadian Appeals Monitor*, March 6, 2018.
- "Pick Your Poison: The Ontario Court of Appeal Clarifies the Distinction Between the Oppression Remedy and the Derivative Action," *Canadian Appeals Monitor*, June 9, 2015.
- "The Duty of Honest Performance: New Ammunition for Plaintiffs Alleging Breach of Contract," *Canadian Corporate Counsel Association Magazine*, Volume 9, No. 2 (Summer 2015).
- "Honesty is the Best Policy: Good Faith in Canadian Contract Law," co-authored with Brandon Kain and Justin Nasser, *Financiers' Worldwide*, April 2015.
- "A New Paradigm for Summary Judgment: The Supreme Court of Canada's Decision in *Hryniak v. Mauldin*," co-authored with Neil Finkelstein, Awi Sinha, and Eric Block, *The Advocates' Quarterly*, Volume 42, no. 4 (April 2014).
- "Third Party Funding for Class Actions: Problems and Solutions," *Canadian Class Action Review*, Volume 8, Issue 2 (May 2013).

Awards & Rankings

Leading Lawyer to Watch - Corporate and Commercial Litigation - 2018

Canadian Legal Lexpert Directory.

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Harvey Strosberg Prize in Class Actions Law - 2012

Recent Insights

- **The corporate identification doctrine clarified through an intervention in the Supreme Court of Canada**
May 21, 2019
- **Ontario Court of Appeal Clarifies the Scope of a Lawyer's Duty to Advise on Damages**
March 06, 2018