



## Dana M. Peebles

### Partner

Toronto

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### Bar Admission

Ontario 1990

### Law School

Osgoode Hall Law School

### Practices

Class Actions  
Corporate Commercial Litigation  
Securities Litigation

Dana M. Peebles is past Chair of the National Class Actions Team at McCarthy Tétrault LLP, and a partner in the Litigation Group in Toronto. He focuses his civil litigation practice on class actions, securities and corporate-commercial litigation.

Dana has acted for leading Canadian companies in the trial and appellate Courts, including the Supreme Court of Canada. He provides ongoing strategic advice to a number of commercial clients. Dana was co-counsel for Defendants in the first two statutory secondary market securities class action leave motions in Canada. His recent class retainers include defending: a banking institution, an electronics company, a leading manufacturer, and other significant public companies in data breach actions; mining, cannabis and other public issuers in securities class actions; a major international chemical company, a leading electronics manufacturer and an American airline company in anti-trust actions; several large Canadian companies in pension class actions, and several manufacturers in consumer product class actions. He is widely recognized in the leading legal ranking publications, and is frequently invited to speak on class action issues. He is a past Director of The Advocates' Society, and a current Director of the Osgoode Society for Canadian Legal History.

### REPRESENTATIVE WORK

Dana's notable current and recent cases with his colleagues at McCarthy Tétrault LLP include:

- Defeating certification and a motion for leave to proceed in a securities class action, confirming the statutory Canadian standard at the appellate level: *Mask v. Silvercorp*, [2016] O.J. No. 4436 (C.A.), affirming [2015] O.J. No. 5471 (S.C.J.)
- Currently representing Brewers Retail Inc., Canada's largest privately owned chain of retail outlets selling beer and other malt beverages in parallel regulatory and class action proceedings relating to the ability to amend pension plans to reduce future indexing of benefits;
- The leading Canadian case on limiting damages claims in consumer data breach class actions: *Lozanski v. Home Depot Inc.*, 2016 ONSC 5447 (S.C.J.);
- A recent significant decision denying the full costs claimed by plaintiffs' counsel in the settlement of a product liability class action: *McCallum-Boxe v. Sony Corporation*, 2015 ONSC 6896 (S.C.J.)
- Representing public issuers, officers and directors, and an accounting firm, in other ongoing, significant securities class actions;
- Obtaining injunctive relief for the Board of Directors of a major Canadian

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corporation against defamatory Internet postings;

- Obtaining an *Anton Piller* Order for the search and seizure of evidence of Internet streaming piracy of the creative content of a major Canadian telecommunications company;
- Successfully represented Crown Metal Packaging Canada, a subsidiary of Crown Holdings, Inc., one of the largest packaging companies in the world, in defeating a plan member appeal to the Financial Services Tribunal of Ontario: *Dudumas v. Superintendent of Financial Services*, 2016 ONFST 15;
- Represented General Dynamics in settling class proceedings relating to pension entitlements in *Gardner et al v. General Motors of Canada Limited and General Dynamics Land Systems – Canada Corporation* including successfully challenging GMCL's interpretation of the settlement agreement that would reduce GMCL's portion of liability under the settlement agreement in 2014;
- Representing IMAX Corporation and Arctic Glacier Income Fund in the ongoing defense of the first and second statutory secondary market securities class actions to reach a leave to proceed hearing in Canada;
- Representing an international electronics manufacturer and a Canadian furniture maker in consumer products class actions; and
- Representing an international chemical company, an international electronics manufacturer, and a major American airline company in anti-trust class actions.

## RANKINGS & RECOGNITION

Dana has been recognized for his expertise and experience by a number of professional ranking organizations:

- *Canadian Legal Lexpert Directory* 2019 for Class Actions and Litigation-Securities
- *Chambers Canada* 2018 for Dispute Resolution: Class Action (Defence)
- *Chambers Global* 2017 for Dispute Resolution: Class Action (Defence)
- *Best Lawyers In Canada* 2017 for Class Action Litigation
- *Benchmark Litigation Guide to Leading Litigation Firms & Attorneys: Local Litigation Star* (2017), Ontario; *Litigation Star, Canada, Class Actions, General Commercial, Professional Liability, and Securities*
- *Lexpert Guide to Leading US/Canada Cross-Border Litigators*, 2016
- *Lexpert's Annual Canadian Legal Directory* 2017:

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- Class Actions (Most Frequently Recommended)

- 2016 *Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada*

## SPEAKING ENGAGEMENTS

Dana is frequently invited to speak and write about advocacy issues:

- Quoted in "[Mini-Roundtable: Canadian Securities Class Action Litigation](#)," *Corporate Disputes* – October-December 2017 Issue
- Co-author: "[Developments in Class Actions Law: The 2014-2015 Term – Securities Litigation Comes of Age at the Supreme Court of Canada](#)" (2017) 77 S.C.L.R. (2d) 1 (with Brandon Kain and Paul Davis) (Reproduced by permission of LexisNexis Canada Inc.), cited with approval by the Quebec Court of Appeal in *Amaya Inc. v. Derome et al.*, January 29, 2018 (Que.C.A.)
- Co-author: "Silvercorp Metals: Ontario Court of Appeals confirms robust test for leave in securities class actions and affirms costs award," *Canadian Class Actions Monitor* – September 2016
- Speaker: Advocates' Society Spring Symposium 2016: "Class Actions in Review - 2015"
- Author: IMAX, 10 Years of Litigation: *Canadian Class Action Quarterly* – April 2016
- Speaker: Osgoode Hall Law School 13<sup>th</sup> Annual National Symposium on Class Actions, April 2016
- Co-chair: Examining and Cross-Examining Experts: Winning Strategies: Advocates' Society, April 2016
- Co-chair: Class Action Advocacy (The Advocates' Society) – March 4, 2015
- Speaker: Langdon Hall Securities Law Practitioners' Conference 2015: "Securities Class Actions Litigation Update"
- Speaker: Law Society of Upper Canada: Civil Litigation 2014 "The Word from the SCC on Class Actions" (Sept. 2014)
- Moderator: McCarthy Tétrault's 4<sup>th</sup> Annual Technology Law Innovation Summit "Cybersecurity Class Actions: A New Breed of Litigation" (May 2015)
- Speaker: The Advocates' Society Speaker Series "Project Management: Exceeding Client Expectations" (April 2014)
- Quoted: "If US retreats on securities class actions, Canada stands ready

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to fill in the gaps" Legal Post, May 28, 2014

## PROFESSIONAL ACTIVITIES

Dana is a past Director of the Advocates' Society, the leading Canadian organization for the representation and education of advocates, and served as Chair of the Standing Committee and Advocacy and Practice, Chair of the National Expansion Task Force and Member of the Education and Collegiality, Mentoring and Membership Committees.

Dana is a Director of the Osgoode Society for Canadian Legal History.

## OTHER SIGNIFICANT RETAINERS

Other significant cases argued by Dana with his colleagues at McCarthy Tétrault LLP include:

- Defining the precertification/leave to proceed standard for document production by Defendants: *Mask v. Silvercorp* (2014) 121 O.R. (3d) 705 (S.C.J.); leave to appeal denied, (2014) ONSC 4647 (Div. Ct.)
- Successfully striking all U.S. exchange purchasers from a Canadian securities class action pursuant to a U.S. Settlement: *Silver v. IMAX* (2013), 36 C.P.C. (7<sup>th</sup>) 254 (Ont.S.C.J.); leave to appeal denied, (2013), 117 O.R. (3d) 616 (Div. Ct.)
- Striking out a proposed billion-dollar class action against a leading Canadian bank – a decision which is now the leading Canadian case on pleading foreign law: *Yordanes v. BNS* (2006), 78 O.R. (3d) 590, 15 B.L.R. (4<sup>th</sup>) 220, 23 C.P.C. (6<sup>th</sup>) 7 (S.C.J.);
- Striking out an Application to commence a derivative action in the name of a leading Canadian insurance company: *Chandler v. Sun Life* (2006), 35 C.C.L.I. (4<sup>th</sup>) 43 (Ont.S.C.J.);
- Striking out a Claim to create common law dissent and appraisal rights for investment trust unitholders: *Silber v. CI* (2006), 24 E.T.R. (3d) 211, 20 B.L.R. (4<sup>th</sup>) 134 (Ont.S.C.J.); affirmed (2007), 27 B.L.R. (4<sup>th</sup>) 171 (Ont.C.A.);
- Successfully defending a "poison pill" (shareholder rights plan) at the Ontario Securities Commission in the largest take-over battle in Canadian securities history: *Falconbridge Limited, Re* (2006), 21 B.L.R. (4<sup>th</sup>) 321 (Ontario Securities Commission);
- Successfully defending an Application under the Business Corporations Act of Ontario: *Xstrata v. Falconbridge*, (2006), 20 B.L.R. (4<sup>th</sup>) 6 (Ont.S.C.J.);
- A successful application for a company to extend the time to call its Annual General Meeting, a decision defining the Canadian legal

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standard for that issue: *In re IMAX* (2007), 41 B.L.R. (4<sup>th</sup>) 289 (Ont.S.C.J.);

- Successfully defeating a proposed securities class action against BCE Inc., in which shareholders of a BCE subsidiary alleged that they had been treated oppressively: *Shaw v. BCE* (2004), 42 B.L.R.(3d) 107 (S.C.J.); a decision upheld by the Court of Appeal for Ontario (2004), 49 B.L.R. (3d) 1 (Ont. C.A.). The Plaintiffs were refused leave to appeal to the Supreme Court of Canada: [2004] S.C.C.A. No. 419.
- Successfully defeating certification in a proposed product liability class action against Clarica (now Sun Life), in which policyholders alleged that they had purchased policies based on "vanishing premium" representations: *Williams v. Mutual Life*, (2001) 51 O.R. (3d) 54 (S.C.J.), and the resulting costs decision is the leading Ontario case on awarding costs in public interest litigation: (2001), 6 C.P.C. (5th) 194 (S.C.J.). The dismissal Order was upheld at the Divisional Court: (2001), 152 O.A.C. 344 (Div.Ct.), and again at the Court of Appeal for Ontario: (2003) 226 D.L.R. (4th) 112 (C.A.). The Plaintiffs were refused leave to appeal to the Supreme Court of Canada: (2004) 223 D.L.R. (4th) vi (S.C.C.).
- Successfully defending an oppression class action against BCE Inc. brought by debenture holders of a BCE subsidiary: *K.Field Resources v. BCI et al.*, [2005] O.J. No. 3935 (S.C.J.).
- Arguing successful Applications on behalf of a major Canadian mutual fund, and on behalf of a Canadian bank, for Orders to rectify significant commercial agreements with potentially detrimental tax consequences: e.g. *C.I. Fees Trust v. CI Mutual Funds Inc.*, [2004] O.J. No. 4789 (S.C.J.).
- Establishing the leading Ontario case on the limitations to the scope of authority of non-lawyer agents representing parties to litigation: *Gagnon v. Pritchard* (2002), 58 O.R. (3d) 557; 17 C.P.C. (5th) 297 (S.C.J.).

Dana received his BA from Queen's University in 1985, and his LLB from Osgoode Hall Law School in 1988.

Dana was called to the Ontario bar in 1990. He has three lovely daughters who really only think his job is interesting because he can wear robes at work, just like the Professors at Hogwarts.

## Awards & Rankings

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## Chambers Canada

Leading Lawyer: Dispute Resolution: Class Action (Defence) - Nationwide Canada

## The Canadian Legal Lexpert Directory

Leading Lawyer : Litigation - Securities and Class Actions

## The Lexpert/American Lawyer Guide to the Leading 500 Lawyers

Most Frequently Recommended: Class Actions

## Benchmark Litigation Canada

Litigation Star: Class Action, General Commercial, Professional Liability, and Securities

## Best Lawyers in Canada

Leading lawyer in the area of Class Action Litigation

## Acritas Star

"Stand-out lawyer"

## Recent Experience

- **McCarthy Tétrault advises Department of Finance Canada on Liability Frameworks in the Context of Open Banking**  
May 28, 2019
- **Kalloghlian Myers LLP and Paul Bates commence shareholder class action against TILT Holdings, Inc.**

## Recent Insights

- **Ontario's Attorney General proposes significant changes to the Class Proceedings Act**  
December 10, 2019
- **Interpreting "The Whole Agreement" in Austin v. Bell Canada**  
October 03, 2019