



Sam Rogers

Partner

Toronto

sbrogers@mccarthy.ca

t. +1 416-601-7726

Bar Admission

Ontario 2012

Law School

University of British Columbia

Practices

Litigation and Dispute Resolution
Environmental, Regulatory & Aboriginal
(ERA)
Corporate Commercial Litigation
Construction
Project Disputes

Industries

Power
Infrastructure

Sam Rogers is a litigation partner in Toronto. He maintains a broad litigation practice, with an emphasis on corporate/commercial, energy, construction, project, real property, and technology litigation. He also has experience defending and prosecuting professional negligence claims.

Mr. Rogers has appeared before all levels of court in Ontario and numerous administrative tribunals. He has represented clients at trials, urgent injunctions, administrative hearings, appeals, and private arbitrations. He has advised clients during times of crisis with their reputation at stake.

Mr. Rogers is an Adjunct Professor at the University of Toronto where he teaches trial advocacy. Mr. Rogers also carries on an active *pro bono* practice including work with Pro Bono Students Canada and Pro Bono Ontario.

SELECTED TRIALS AND HEARINGS

- *Martindale v. Bahl et al*, 2023 ONSC 4259 – represented an emergency room physician and general surgeon at trial regarding an alleged delay in diagnosis of cancer.
- Represented fueling company in challenge to penalties arising from spill at Transportation Appeal Tribunal of Canada.
- *Sommerville v. Fine*, 2021 ONSC 5638 – represented an emergency room physician at trial regarding diagnosis of a knee injury.
- Represented a Canadian subcontractor in an ICC arbitration regarding the termination of a large-scale expansion works FIDIC contract.
- *Infinity Construction v. Skyline Executive Acquisitions*, 2021 ONSC 2397 – represented owner of a vacation resort at trial concerning construction of a condominium development, decision under reserve
- *Barker v. Barker*, 2020 ONSC 3746, 2021 ONSC 158, and 2022 ONCA 567 – represented two psychiatrists at trial and appeal concerning treatment programs developed at maximum security mental health centre in 1960s and

Sam Rogers

Partner

Toronto

sbrogers@mccarthy.ca

t. +1 416-601-7726

1970s

- *Infinity Construction v. Skyline Executive Acquisitions*, 2020 ONSC 77 – represented owner of a vacation resort at trial concerning construction of vacation homes
- *Smith v. Kane*, 2020 ONSC 329 and 2021 ONCA 634– represented family physician at trial and appeal regarding alleged delayed diagnosis of charcot foot
- *Capital Solar Power Corporation v. Ontario Power Authority*, 2019 ONSC 1137 – represented a solar power company at trial against the Independent Electricity System Operator for misfeasance in public office
- *DeMarco et al. v. Martin*, 2019 ONSC 2788 – represented family physician at a trial arising from a sudden cardiac death of a patient
- EB-2017-0049, March 7, 2019 – represented Hydro One in a hearing concerning its 2018-2022 distribution rate application
- *Belwood Poultry Ltd. vs. the Turkey Farmers of Canada* (2018) – represented turkey producer at hearing before the Farm Products Council of Canada
- *Native Women’s Resource Centre of Toronto v Morning Sky Consulting Inc.* 2017 CanLII 67330 (ON SCSM) –represented charity, pro bono, in trial against former auditor
- *TP (Re)*, 2017 CanLII 86545 (ON CCB) –represented critical care physician at Consent and Capacity Board hearing concerning the withdrawal of mechanical ventilation
- *Canadian National Railway Company v Ontario (Environment and Climate Change)*, 2017 CanLII 66327 (ON ERT) – represented railway company in hearing before the Environmental Review Tribunal concerning cost recovery orders
- *Pillon Motors v. Mauro* (2017) –represented client, pro bono, in small claims court trial arising from motor vehicle collision
- *Barber v. Humber River Regional Hospital*, 2015 ONSC 1838 and 2016 ONCA 897 - represented emergency room physicians at trial and appeal concerning alleged missed diagnosis of bacterial meningitis

Sam Rogers

Partner

Toronto

sbrogers@mccarthy.ca

t. +1 416-601-7726

- Represented a Turkey breeder at a hearing before the Turkey Farmers of Ontario (2015)
- Represented an owner in an arbitration with a general contractor concerning the construction of a hydro-electric dam (2015)
- *Bain v. Ontario (Ministry of the Environment)*, [2014] O.E.R.T.D. No. 13 - represented a wind farm developer in an environmental challenge to a renewable energy approval before the Environmental Review Tribunal
- *Alliance to Protect Prince Edward County v. Ontario (Ministry of the Environment)*, [2013] O.E.R.T.D. No. 40; 2014 ONSC 974 (Div Ct); (2015) 119 O.R. (3d) 704 (CA); 2015 ONCA 269; and 2016 CanLII 35406 (ON ERT) – represented a wind farm developer in an environmental challenge to a renewable energy approval before the Environmental Review Tribunal, two appeals, a stay motion and a remedy hearing

SELECTED APPLICATIONS, INJUNCTIONS, AND MOTIONS

- *Mehedi v Mansour*, 2023 ONSC 3683 – successful motion to dismiss (and appeal) of claims against two physicians
- *Haudenosaunee Development Institute v. Metrolinx*, 2023 ONCA 144, 2023 ONCA 122, 2023 ONSC 1204, 2023 ONSC 1170, and *Law Society of Ontario v. Metrolinx*, 2023 ONSC 1169 – represented Metrolinx in injunctions regarding construction of Ontario Line subway
- Obtained ex parte mareva injunction in case of financial fraud
- *KHK (re)*, 2021 CanLII 85312 and *DK v. Gilfoyle*, 2021 ONSC 7248 – represented critical care physician at Consent and Capacity Board Hearing and Appeal regarding withdrawal of life support
- *Baffinland Iron Mines v. Tower-EBC*, 2021 ONSC 5639 – moved to intervene in commercial list application arising from arbitration
- *346 Spadina v. Auxly Cannabis Group Inc.* (2021) – successfully moved to strike a portion of a claim for breaching settlement privilege
- *Infinity Construction Inc. v. Skyline Executive Acquisitions Inc.*, 2018 ONSC 7630 - represented an owner at summary judgement motion concerning a limitation period

Sam Rogers

Partner

Toronto

sbrogers@mccarthy.ca

t. +1 416-601-7726

- EB-2017-0336 and EB-2018-0269 – represented Hydro One in a motion to review and vary a decision of the Ontario Energy Board concerning a deferred tax asset valued at \$2.6 billion, and at appeal at Divisional Court
- *Carbone v. DeGroot*, 2018 ONSC 109 – successful moved for dismissal of an action claiming \$108 million
- *Ferreira v St. Mary's General Hospital*, 2017 ONSC 4243, 2017 ONSC 6631, 2018 ONCA 247, and 2018 CanLII 92112 (SCC) – successfully represented anesthetist in emergency application concerning the withdrawal of mechanical ventilation, appeal, and leave application
- *Barker v Barker*, (2017) 139 O.R. (3d) 96, 2017 ONSC 3397, and 2018 ONCA 255 – represented two psychiatrists at summary judgment motion concerning treatment programs developed at maximum security mental health centre in 1960s and 1970s and appeal
- *Twelve Gates Capital v Eminence Living Inc.*, 2017 ONSC 3506 and 2017 ONSC 5671 – successfully set aside three certificates of pending litigation
- *Kelowna Flightcraft Air Charter Ltd. v Kales Group BV*, 2016 ONSC 8015 – successfully defended a motion for payment of a specific fund into court
- *B. v Canada (Attorney General)* (2016) 129 O.R. (3d) 749 and 129 O.R. (3d) 700; *W.V. v. Canada (Attorney General)* (2016), 130 O.R. (3d) 529; *M.N. v Canada (Attorney General)*, 2016 ONSC 3346; *I.J. v Canada (Attorney General)* (2016), 131 O.R. (3d) 789; *O.P. v Canada (Attorney General)*, 2016 ONSC 3956 - represented physicians at applications for medical aid in dying pursuant to the *Carter* exemption
- Represented a life insurance company in a disputes with former life insurance agents – including obtaining multiple emergency injunctions
- Obtained emergency Mareva injunction in a case of significant financial fraud
- Represented life insurance company in challenge to changes to the life license qualification program
- *1298781 Ontario Inc. v. 730 St. Clarens Avenue Holdings Ltd.*, 125 O.R. (3d) 475 – appeal from status hearing decision confirming clients ability to set action down for trial

Sam Rogers

Partner

Toronto

sbrogers@mccarthy.ca

t. +1 416-601-7726

- Obtained emergency injunctions to remove trespassers from an energy client's assets
- *Williams v. Apotex Inc.*, 2014 ONSC 894 – represented client at motion to strike
- *Carbone et al. v. Michael DeGroot et al.*, 2014 ONSC 6146 - obtained an order for security for costs of \$295,000
- *Ber v. Goldberg*, 2014 ONSC 3952 – motion excluding evidence for violating deemed undertaking rule
- *LRK v CK*, 2014 CanLII 40738 (ON HPARB); *TN v RMS*, 2014 CanLII 61674 (ON HPARB); *E.Q. v P.W.P.*, 2015 CanLII 18338 (ON HPARB); *J.K. v B.S.H.M.K.*, 2016 CanLII 23358 (ON HPARB), *Loewen v Pugh*, 2021 CanLII 109380 (ON HPARB), *Loewen v Williams*, 2021 CanLII 109376 (ON HPARB), *Loewen v Helou*, 2021 CanLII 109394 (ON HPARB), *Archer v Parra*, 2022 CanLII 120451 – represented physicians at reviews of decisions of investigations committee of College of Physicians and Surgeons of Ontario, and Dental Surgeons of Ontario

Mr. Rogers received his J.D. from the University of British Columbia in 2011. During law school, he was awarded prizes for academic achievement, participated in the Wilson Moot, and volunteered with the Law Students Legal Advice program. In 2008, he completed a co-op degree in Honours Computer Science at the University of Waterloo.

Mr. Rogers is a member of the Law Society of Ontario, the Advocates Society, the Toronto Lawyers Association, the Canadian Bar Association, and the Ontario Bar Association.

Recent Experience

- **Partners Group acquires SureWerx from The Riverside Company**

December 28, 2022

Recent Insights

Sam Rogers

Partner

Toronto

sbrogers@mccarthy.ca

t. +1 416-601-7726

- **The High Stakes of Construction Litigation: Unpacking the Ontario Superior Court's Decision in 1917196 Ontario Ltd. v. Kazmi.**

March 15, 2024

- **All About the Pleadings: Substantive Argument Not Helpful on Motion For Further and Better Affidavit of Documents**

February 26, 2024

- **Two-Year Extension on the Prohibition on the Purchase of Residential Property by Non-Canadians**

February 6, 2024

- **There Has To Be Something More: Court Finds Decision of Adjudicator Insufficient To Reduce Security**

July 27, 2023