



# Dana M. Peebles

## Associé

Toronto

[dpeebles@mccarthy.ca](mailto:dpeebles@mccarthy.ca)

t. +1 416-601-7839

## Admission au barreau

Ontario 1990

## Faculté de droit

Osgoode Hall Law School

## Domaines de pratique

Actions collectives

Litige en droit commercial et en droit des sociétés

Litige en valeurs mobilières

*Disponible en anglais seulement*

**Dana M. Peebles is past Chair of the National Class Actions Team at McCarthy Tétrault LLP, and a senior 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 in multiple provinces and in 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 action 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.

Dana 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 in a consumer representation class action: *Lewis v. Uber et al.*, 2023 ONSC 6190;
- Setting the standard in Canadian law to establish privilege to protect internal investigation reports by Special Committees of Boards of public

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issuers, in a securities class action: *Vecchio Longo v. Aphria et al.*, 2023 ONSC 6336;

- Defeating certification in a data breach class action: *Setoguchi v. Uber B.V.*, 2021 ABQB 18; upheld, *Setoguchi v. Uber B.V.*, 2023 ABCA 45; leave to appeal denied, *Setoguchi v. Uber B.V.*, 2023 SCC 403681;
- Defeating a jurisdiction motion and successfully certifying a defendants' class proceeding: *Brewers Retail v. Campbell*, 2022 ONSC 2795; appeal dismissed, *Brewers Retail v. Campbell*, 2023 ONCA 534;
- Dismissing an Application for criminal sanctions against a leading retail organization: *Schnurr v. CT Corporation et al.*, 2019 ONSC 5781;
- Staying four individual lawsuits in the face of a proposed class action: *Carter v. LifeLabs*, 2020 ONSC 7340 (S.C.J.);
- Defeating motions for certification and leave to proceed in a securities class action: *Paniccia v. MDC Partners Inc.*, 2018 ONSC 3470 (S.C.J.);
- 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.);
- Representing the Defendant in the then-leading Canadian case on limiting damages claims in consumer data breach class actions: *Lozanski v. Home Depot Inc.*, 2016 ONSC 5447 (S.C.J.);
- 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.);
- Obtaining injunctive relief for the Board of Directors of a major Canadian 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, 2017 ONSC 2443, and then a *Norwich* Order in the same matter (Sept. 17, 2018);
- Successfully represented the Canadian, one of the largest packaging companies in the world, in defeating a plan member appeal to the Financial

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Services Tribunal of Ontario: *Dudumas v. Superintendent of Financial Services*, 2016 ONFST 15; and

- 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.

## Speaking and Writing Engagements

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

- Speaker: "Pension Disputes and Class Action Strategies", McCarthy Tétrault Advance, November 29, 2023
- Speaker: "Privacy Law Summit", Ontario Bar Association, October, 2023;
- Speaker: "The Art of the Settlement", Advocates Society, April, 2023;
- Speaker: Top 10 Cases Affecting Your In-House Practice, McCarthy Tétrault Advance, Jan, 24, 2022;
- Speaker: Top 10 Cases Affecting Your In-House Practice, McCarthy Tétrault Advance, Jan. 26, 2021;
- Speaker: Changes to the Class Proceedings Act, January 16, 2020, McCarthy Tétrault Advance;
- Speaker: "Leadership Skills for Litigators"; Advocates' Society, March 29, 2019;
- Speaker, Annual Disclosure and Governance Seminar, McCarthy Tétrault Advance, Nov. 22, 2018;
- Speaker: "Focus on Credibility", Advocates' Society, November 21, 2018;
- 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.);

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- 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; and
- Co-chair: Examining and Cross-Examining Experts: Winning Strategies: Advocates' Society, April 2016.

## 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

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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 standard for that issue: *In reIMAX* (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.);

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- Successfully defending an oppression class action against BCE Inc. brought by debenture holders of a BCE subsidiary: *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. *I. Fees Trust v. CI Mutual Funds Inc.*, [2004] O.J. No. 4789 (S.C.J.); and
- 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 used to think his job was sort of interesting because he can wear robes at work, just like the Professors at Hogwarts. But now they are too grown up for that.

## Prix et distinctions

### Chambers Canada

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

### Benchmark Litigation Canada

Litigation Star

### The Canadian Legal Lexpert Directory

Leading Lawyer : Class Actions; Data Protection & Privacy; Litigation - Securities

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

Leading Lawyer: Litigation - Class Action

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## Lexpert Special Edition: Litigation

Leading Lawyer

## Best Lawyers in Canada

Leading lawyer in the area of Class Action Litigation

## Acritas Star

"Stand-out lawyer"

## Mandats récents

- **La Cour d'appel confirme la capacité de Brewers Retail d'intenter un recours collectif inversé contre ses retraités**  
10 août 2023
- **Victoire d'Uber dans le cadre de sa défense contre un recours collectif potentiel portant sur la violation des données d'un tiers**  
13 juillet 2023

## Publications récentes

- **Alberta Court of Appeal upholds dismissal of certification application in proposed data breach class action**  
28 février 2023
- **SCC Rejects Data Breach Class Action Appeals**  
9 août 2023

## Événements

- **Jurisprudence canadienne en 2023 : l'effet sur votre entreprise**  
1 février 2024

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- **13e séminaire annuel sur les régimes de retraite et les avantages sociaux**

29 novembre 2023

- **Jurisprudence canadienne en 2022 : l'effet sur votre entreprise**

26 janvier 2023

- **Jurisprudence canadienne en 2021 : l'effet sur votre entreprise**

20 janvier 2022