

Background and Executive Summary

Marty Sclisizzi is a former Senior Partner at Borden Ladner Gervais LLP with over 40 years' experience as a trial and appellate counsel. He brings a wealth of legal knowledge and experience in litigating a wide variety of complex and multi-party disputes including class action proceedings, banking, insolvency, fraud, employment, estate, real estate, environmental, partnership, shareholder and business disputes. He has appeared before all levels of courts in Canada, including the Supreme Court of Canada, and regulatory, administrative and arbitral tribunals. He also regularly provides strategic, legal and risk management advice to major corporations. Marty is certified by Osgoode Hall Law School and The Society of Ontario Adjudicators and Regulators in Adjudication for Administrative Agencies, Boards and Tribunals. He has been designated a Fellow of the Chartered Institute of Arbitrators.

Marty is recognized as a leading practitioner in Canada in the areas of banking and financial institutions litigation, including retail banking disputes, lender liability, financial and payment instruments, letters of credit and civil fraud.

Education, Bar Admission, Certification

- LLB, Queen's University, 1972
- BA in Philosophy and Political Science, University of Toronto, 1969
- Certified since 1989 by the Law Society of Upper Canada as a Civil Litigation Specialist
- Certified in Adjudication for Administrative Agencies, Boards and Tribunals by Osgoode Hall Law School of York University and The Society of Ontario Adjudicators and Regulators
- Designated a Fellow of the Chartered Institute of Arbitrators

Professional and Community Involvement

- Former Instructor at the Law Society of Upper Canada, Bar Admission Course, Civil Litigation Section (1980-1992) and Creditors & Debtors Rights Section (1982-1986), Law Society of Upper Canada, Civil Litigation Specialty Committee
- Speaker at Law Society of Upper Canada, Continuing Education and at Canadian Bar Association-Ontario, Continuing Education programs on remedies, security enforcement and trial advocacy practice; Canadian Institute on various banking litigation subjects
- Member of Canadian Bar Association, Canadian Bar Association-Ontario Civil Litigation Section Executive (1986-1993; Vice-Chairperson 1988-1989), Advocates Society, Association of Trial Lawyers of America, Metropolitan Toronto Lawyers Association, Lawyers Club of Toronto, Thomas More Lawyers' Guild, Canadian-Italian Advocates Organization, International Bar Association and Victoria-Haliburton Law Association

Rankings and Peer Recognitions

- Selected by peers for inclusion in the 2008 – 2018 editions of *The Best Lawyers in Canada* (Corporate and Commercial Litigation)
- *Lexpert® Guide to the Leading US/Canada Cross-Border Litigation Lawyers in Canada*

- *Lexpert® Report on Business Litigation, Benchmark Canada – The Definitive Guide to Canada’s Leading Litigation Firms and Attorneys* as a “Local Litigation Star: Ontario” and “Litigation Star: Class Action”
- *The Canadian Legal Lexpert® Directory (Litigation- Corporate Commercial)*
- Ranked by Benchmark Canada as a Leading Litigator in 2012 – 2015 editions
- Martindale-Hubbell AV® Preeminent™ 5.0 out of 5.0 Peer Review Rating

Professional Experience and Sampling of Reported Cases

- *Teva Canada Limited v. TD Canada Trust*, 2017 SCC 51
- *Trade Capital Finance Corp. v. Cook*, 49 C.B.R. (6th) 298
- *Trade Capital Finance Corp. v. Cook*, 48 C.B.R. (6th) 4
- *2260695 Ontario Ltd. v. Invecom Associates Ltd.*, 70 R.P.R. (5th) 266
- *Teva Canada Limited v. Bank of Montreal et al*, 394 D.L.R. (4th) 298; 129 O.R. (3d) 1 (C.A.)
- *Raza Kayani LLP v. Toronto-Dominion Bank*, 14 C.C.L.T. (4th) 175; 378 D.L.R. (4th) 729 (Ont. C.A.)
- *Fulawka v. Bank of Nova Scotia*, 69 C.P.C. (7th) 134
- *Evans v. Wilson*, 55 C.P.C. (7th) 141
- *Raza Kayani LLP v. Toronto Dominion Bank*, 9 C.C.L.T. (4th) 154
- *Setia et al v. Appleby College*, 52 Admin.L.R. (5th) 338 (Ont. Div. Ct); 118 O.R. (3d) 481 (C.A.)
- *Teva Canada Ltd. v. Bank of Montreal*, 353 D.L.R. (4th) 326 (C.A.)
- *Oakdale Kitchens Inc. v. Bank of Nova Scotia*, 3 B.L.R. (5th) 323
- *Ivandic v. The Bank of Nova Scotia*, 3 C.C.P.B. (2d) 1; 3 C.C.P.B. (2d) 20 (C.A.)
- *Re Collections Inc. v. Toronto-Dominion Bank*, 20 C.P.C. (7th) 195
- *Lorello v. Meffe*, 99 M.P.L.R. (4th) 107
- *Brookfield Properties Ltd. v. Heath*, 5 C.P.C. (7th) 393
- *Fulawka v. Bank of Nova Scotia*, 111 O.R. (3d) 346 (C.A.)
- *Silverberg v. 1054384 Ontario Ltd.*, 84 R.P.R. (4th) 85(C.A.)
- *Phinny v. Macaulay* 75 R.P.R. (4th) 66
- *Silverberg v. 1054384 Ontario Ltd.*, (2008), 77 R.P.R. (4th) 102
- *Maystar General Contractors Inc. v. International Union of Painters and Allied Trades, Local 1819*, (2008), 90 O.R. (3d) 451 (C.A.)
- *Chapman v. The Bank of Nova Scotia* (2007) 58 C.C.E.L (3d)25
- *Good Life Corporation v. Hazeldean Properties Inc. et al*, 63 R.P.R. (4th) 267
- *Mohawk Square Development Ltd. v. Suncor Energy Inc.* (2007) 62 R.P.R. (4th) 100
- *McLaine v. London Life Insurance Co.*, 59 C.P.C. (6th) 235
- *McLaine v. London Life Insurance Co.*, 53 C.P.C. (6th) 135 (Div. Ct.)

- *Daimler Chrysler Corp. v. Liberty Motor Co.*, 54 C.P.C. (6th) 318
- *FL Receivables Trust 2002 - A v. Cobrand Foods Ltd.* (2007) 85 O.R. (3d) 561 (C.A.)
- *Chandler v. Sun Life Financial Inc.* 14 B.L.R. (4th) 171
- *Ontario English Catholic Teachers' Assn. v. Toronto Catholic District School Board*, 222 O.A.C. 23
- *Maystar General Contractors Inc. v. International Union of Painters and Allied Trades, Local 1819*, 280 D.L.R. (4th) 692
- *Benjamin v. Toronto-Dominion Bank* (2006) 80 O.R. (3d) 424
- *Mastrogiuseppe v. Bank of Nova Scotia*, 61 C.C.E.L. (3d) 1 (C.A.)
- *Eastgate Developments Ltd. v. First Pioneer Investments Ltd.*, 17 CELR (3d) 256
- *Cumming (Litigation Guardian of) v. DeSouza* (2005) 74, O.R. (3d) 197
- *Clark v. Scotiabank* (2004), 25 C.C.L.T. (3d) 109
- *Aquicon Construction Co. v. Vaughan (City)*, 29 C.L.R. (3d) 164; 42 M.P.L.R. (3d) 84
- *Toronto Catholic District School Board v. Ontario English Teachers Association* (2002), 55 O.R. (3d) 782 (Ont. C.A.)
- *Unisys Canada Inc. v. York Three Associates Inc., et al* (2002), 44 R.P.R. (3d) 138 (Ont. C.A.)
- *Boehringer Ingelheim (Canada) v. Pharmacia Canada Inc* (2001), 12 C.P.R. (4th) 317
- *Bank of Nova Scotia v. Toronto-Dominion Bank* (2001), 200 D.L.R. (4th) 549 (Ont. C.A.)
- *Unisys Canada Inc. v. York Three Associates Inc.* (2001), 39 R.P.R. (3d) 220
- *Apotex Inc. v. Hoffman LaRoche Ltd. et al* (2001), 195 D.L.R. (4th) 244 (Ont. C.A.)
- *O'Brien v. McNabb*, 36 R.P.R. (3d) 55
- *Almel Inc. v. Sunoco Inc.* (1999), 125 O.A.C. 128 (Ont. C.A.)
- *Veer v. Dover Corp. (Canada) Ltd.* (1999), 45 C.C.E.L. (2d) 183 (Ont. C.A.)
- *Metropolitan Toronto Condominium Corp. No. 539 v. Chapters Inc.* (1999), 24 R.P.R. (3d) 319
- *Berry et al v. Indian Park Association* (1999), 44 O.R. (3d) 301 ; (1999), 23 R.P.R. (3d) 169 (Ont. C.A.)
- *Dimascio v. Ontario (Minister of Education and Training)* (1999), 172 D.L.R. (4th), 421 (Ont. C.A.)
- *713860 Ontario Limited v. Royal Trust Corporation et al* (1999) 43 O.R. (3d) 159 (Ont. C.A.)
- *Dent Wizard International Corp. v. Brazeau* 31 C.P.C. (4th) 174
- *AIC Ltd. v. Infinity Investment Counsel Ltd.* 82 CPR (3d) 508
- *Armstrong Baum Plumbing & Heating v. Toronto Dominion Bank* (1997), 32 B.L.R. (2d) 230 (Ont. C.A.)
- *Berry et al v. Indian Park Association* (1997), 33 O.R. (3d) 522

- *Shek v. Bank of Nova Scotia* (1996), 17 C.C.E.L. (2d) 236
- *Semelhago v. Paramadevan* (1996), 136 D.L.R. (4th) 1 (S.C.C.)
- *Associates Commercial Corp. v. Scotia Leasing Ltd.* (1994), 24 B.L.R. (2d) 310 (Ont. Gen. Div.)
- *F.G. and J.M. v. Board of Education of Scarborough* (1994), 68 O.A.C. 308 (Ont. Div. Ct.)
- *Semelhago v. Paramadevan* (1994), 19 O.R. (3d) 479 (Ont. C.A.)
- *Armstrong Baum Plumbing & Heating v. Toronto-Dominion Bank* (1994), 15 B.L.R. (2d) 84
- *Mison v. The Bank of Nova Scotia* (1994), 6 C.C.E.L. (2d) 146; (1994), 6 C.C.E.L. (2d) 159
- *Re Clinton 's Flowers & Gifts Ltd.* (1993), 14 O.R. (3d) 24 (Ont. C.A.)
- *Ash et al v. Lloyd's Corporation et al* (1992), 9 O.R. (3d) 755 (Ont. C.A.); Leave to appeal to S.C.C.
- *Ash et al v. Lloyd's Corporation et al* (1992), 8 O.R. (3d) 282 (Leave to Appeal)
- *Ash et al v. Lloyd's Corporation et al* (1992), 6 O.R. (3d) 235 (Ont. Gen. Div.)
- *St. Jane Plaza Ltd. v. Sunoco Inc.* (1992), 24 R.P.R. (2d) 161 (Ont. Gen. Div.)
- *Director of Support and Custody Enforcement v. Jones* (1991), 5 O.R. (3d) 499 (Ont. Gen. Div.)
- *Manufacturers Life Property Corporation v. Senkow* (1990), 75 O.R. (2d) 254 (Div. Ct.)
- *Gardiner v. Jones*, 39 CPC (2nd) 205
- *Re National Energy Board*, [1988] 2 F.C.R. 196, 48 D.L.R. (4th) 596 (F.C.A.)
- *Re Maubach and The Bank of Nova Scotia* (1987), 62 O.R. (2d) 220 (Ont. C.A.)
- *Re Maubach and The Bank of Nova Scotia* (1987), 60 O.R. (2d) 187 (H.C.J.)
- *Corporate Properties Ltd. v. Manufacturers Life Insurance Company* (1987), 60 O.R. (2d) 263 (H.C.J.)
- *Re Yustin Construction Ltd.* (1986), 57 C.B.R. (N.S.) 320
- *General Motors Acceptance Corp. v. The Bank of Nova Scotia* (1986), 55 O.R. (2d) 438 (Ont. C.A.)
- *General Motors Acceptance Corp. v. The Bank of Nova Scotia* (1985), 50 O.R. (2d) 84 (H.C.J.)
- *Re Mac's Convenience Stores and Minister of the Environment* (1985), 48 O.R. (2d) 9 (Div. Ct.)
- *The Bank of Nova Scotia v. Terry* (1984), 46 O.R. (2d) 180; 9 D.L.R. (4th) 101 (Ont. C.A.)
- *The Bank of Nova Scotia v. Terry* (1984), 141 D.L.R. (3d) 438; 26 R.P.R. 233 (H.C.J.)
- *Re Urman* (1984), 44 O.R. (2d) 248; 3 D.L.R. (4th) 631 (Ont. C.A.)
- *Re Urman* (1984), 128 D.L.R. (3d) 33; 38 C.B.R. (N.S.) 261; 15 B.L.R. 165; 20 R.P.R. (H.C.J.)
- *Chantler v. Applied Power Ltd.* 1 C.C.E.L. 141 (H.C.J.)

- *Profit Sharing Investors of Canada Ltd. v. Coffee Vending Services (Ottawa) Ltd.* (1983), 41 O.R. (2d) 470; 146 D.L.R. (3d) 320 (H.C.J.)
- *Plibrico (Canada) Ltd. v. Suncor Inc.* (1982), 35 O.R. (2d) 781; 27 C.P.C. 5 (H.C.J.)
- *Re Williams* (1982), 33 O.R. (2d) 180; 124 D.L.R. (3d) 337; 14 B.L.R. 215 (H.C.J.)
- *Re Karelia Ltd.* (1981), 31 O.R. (2d) 153; 118 D.L.R. (3d) 175 (H.C.J.)
- *Brett et al v. Fleet* (1981), 30 O.R. (2d) 397 ; 116 D.L.R. (3d) 516 (H.C.J.)
- *Re Country Kitchen Donuts*, 34 CBR (N.S.) 252
- *Diegel & Feick Inc. v. Donia Consulting Corporation* (1980), 35 C.B.R. (N.S.) 134 (H.C.J.)
- *Gulf Canada Ltd. v. Turbo Resources Ltd. et al* (1980), C.P.C. 146 (H.C.J.)
- *Re Balaji Apartments Ltde. and Manufacturers Life Insurance Co.* (1980), 25 O.R. (2d) 275; 100 D.L.R. (3d) 693 (H.C.J.)
- *Re Leifer* (1979), 28 C.B.R. (N.S.) 291 (H.C.J.)
- *Re Polsak* (1978), 19 O.R. (2d) 570; 85 D.L.R. (3d) 748 (H.C.J.)
- *Re Comrie Lumber Co. Ltd. and Tomlinson Construction Services Ltd.* (1977), 15 O.R. (2d) 613 (H.C.J.)
- *Beyer et al v. Absamco Developments Ltd.* (1977), 12 O.R. (2d) 768 (D.C.O.)
- *Great Canadian Oil Sands Limited v. Deputy Minister of National Revenue*, [1976] 2 F.C.R. 281 (F.C.A.)

Publications

- 'Mortgagee's Obligations When Selling Property'; Mortgage Remedies, Law Society of Upper Canada, Continuing Legal Education, January 1985
- Section 178 of the Bank Act Security, Enforcement, Law Society of Upper Canada, 1988
- 'The Mortgagee's Obligation to Obtain Proper Price When Selling Under Power of Sale'; Mortgage Remedies and Related Title Problems, Canadian Bar Association - Ontario, May 8, 1989
- 'Relationship Between the Bank and the Customers'; Banking Litigation, The Canadian Institute, March 26, 1991
- 'Conversion of Cheques: Increased Bank Exposure Following Boma'; Banking Litigation, The Canadian Institute, April 6 & 7, 1998
- 'Anticipatory Breach, Tender, Time Is of The Essence and Specific Performance', Curing or Killing the Sick Real Estate Deal: Litigation and Real Estate Strategies, Canadian Bar Association - Ontario, April 22, 1999
- 'When Things Go Wrong: Crisis Management', Minimizing the Risk of Financial Fraud; Insight, October 4, 1999
- 'Theory of the Case: How and Why Developed', Theory of the Case; Law Society of Upper Canada, Continuing Legal Education, December 15, 1999

- 'Preserving the Right to Enforce Commercial Obligations: Impact of Ontario 's New Limitations Act on Commercial Disputes', Law Society of Upper Canada, Continuing Legal Education, June 2003