



McCague Borlack^{LLP}

Barristers & Solicitors

PROFESSIONAL LIABILITY

Professionals today face tremendous pressure from demanding clients. The news media frequently carry stories about large errors and omissions (E&O) claims brought against professionals who were “only trying to do their jobs”.

At McCague Borlack LLP, we respect the hard work of our professional clients, and strive to protect their reputations while minimizing their financial exposure.

Services

Our Toronto law firm's Professional Liability Group has experience in all aspects and phases of professional liability issues, ranging from risk management through to dispute resolution. We have represented professionals in numerous fields, including:

- Accountants and Auditors
- Adjusters
- Architects
- Chiropractors
- Directors and Officers
- Engineers
- Financial Planners/Advisors
- Health Care Practitioners
- Home Inspectors
- Insurance Agents and Brokers
- Interior Design Professionals
- Lawyers
- Mortgage Brokers
- Nurses
- Private Investigators
- Real Estate Agents and Brokers
- Receivers and Trustees
- Veterinarians

Litigation

We act on a full range of matters that involve professional liability exposures, including those involving design, manufacturing, construction, inspection, and maintenance errors, pollution exposures, intellectual property disputes, disciplinary procedures, quasi-criminal allegations, inquests, employment practices, and libel and slander. Some of our files involve class actions that are extremely complex, with highly technical issues, voluminous documentary productions, and extensive damage claims.

Risk Management

We have given numerous “smell-the-coffee” seminars to our clients and professional organizations. We proactively assist in reviewing and drafting contract wordings and exculpatory clauses, and thereafter negotiate the wordings of contracts with the involved parties on given projects. We represent professionals in investigations and disciplinary hearings. Throughout, our skilled negotiators explore and utilize alternative dispute resolution (ADR) processes to minimize the financial, reputational, and time impact of these processes on our clients. Finally, we also assist insurers in drafting policy wordings, special endorsements, and exclusions for their various program coverages.

Chairs

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Members of the Group

Stephen Barbier
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Hillel David
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Samaneh Frounchi
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Theresa Hartley
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PROFESSIONAL LIABILITY CONT'D.

Intellectual Property

Our Professional Liability Practice Group includes our Intellectual Property Team.

Led by founding partner and senior trial counsel, Howard Borlack, our Intellectual Property Team has successfully handled many forms of IP matters for a wide range of clientele. For example, our risk management services include advising on licensing, cross-border issues and communications strategies, drafting employment contracts, restrictive work product agreements, confidentiality agreements, and restrictive covenants against disclosure and competition. Our Team also drafts IP insurance policy wordings, exclusions and special endorsements, advises on coverage, and provides complete coverage dispute services.

With respect to IP litigation and alternative dispute resolution services, our IP Team has handled everything from simple contractual disputes to very complicated litigated matters. These types of matters include acting in a variety of industrial design, trade secrets, patents, trademark and copyright infringement cases, misappropriation of software actions and defamation through electronic media disputes.

In summary, the broad range of IP services provided by our IP Team enables our clients to protect their rights thereby increasing the value of their businesses. And, our affiliation with Canadian Litigation Counsel, and our special relationship with The Harmonie Group and DAC Beachcroft LLP gives us access to over 100 law firms consisting of over 5,000 lawyers worldwide, thereby enabling our Team to coordinate our IP services globally.

Publications

- *Lights, camera, financial transaction: Auditor liability after the Livent decision* by Ben Carino and Peter Vlaar, MB Client Newsletter, January 26, 2016
- *When all is said and done: Final Releases* by Adam Grant, First presented at a Client Seminar, December 16, 2015
- *Ontario Court of Appeal releases decision in expert evidence case* by Laurie Murphy, MB Newsletter, January 29, 2015
- *Executive Officers are Employees: The "Gap" Between Workers' Compensation and General Liability Policies* by Anthony Gatensby, September 12, 2013
- *Journalist-Confidential Source Privilege May Exist In Canada*, Toronto Law Journal, June 01, 2010
- *Professional Liability and the Financial Advisor* by Howard Borlack and Laurie Murphy, Ontario Bar Association, February 16, 2010

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