

DAVID THOMPSON

CURRICULUM VITAE

WORK EXPERIENCE

February, 2001
to present

Barrister and Solicitor
SCARFONE HAWKINS ^{LLP}
Barristers and Solicitors
One James Street South, 14th Floor
Hamilton, Ontario
L8N 3P9

Partner

Civil Litigation Practice with a strong emphasis on Plaintiff Class Action work, and Commercial Litigation. Broad exposure to a wide range of litigation matters including class proceedings, breach of contract, shareholder and corporate disputes, injunctions and mandatory orders, fiduciary duties, negligence, misrepresentation and detrimental reliance, aborted real estate and business transactions, wrongful dismissal and labour disputes, insurance claims and debt collection.

Responsibilities

Client contact, determined problem areas, analyzed problems, recommended and implemented solutions. Negotiated settlements to conflict, participated in numerous interlocutory proceedings in Ontario Superior Court of Justice, numerous trials in Ontario Superior Court of Justice, etc., and appeal proceedings in the Ontario Court of Appeal and Divisional Court.

Also appeared before numerous and various administrative tribunals/committees including Land Division Committees, Academic Appeals Committees, Workers' Safety and Insurance Board of Ontario, Liquor Licence Board of Ontario and Commercial Registration Appeals Tribunal.

February, 1988 to
January, 2001

Barrister and Solicitor
BROWN, SCARFONE, HAWKINS
Barristers and Solicitors
1050-120 King Street West
Hamilton, Ontario
L8N 3P9

Associate February 1988 - January 1993
Partner February 1993 - January, 2001

June, 1987 to
September, 1987

Student-at-Law
STEPHAN M. FRANKEL
Barrister and Solicitor
4200-100 Main Street East
Hamilton, Ontario
L8N 3W6

Exposure to various areas of law including criminal law, civil litigation and landlord and tenant law.

Responsibilities

Drafting pleadings, and other documents, research and preparing memoranda of law, meeting clients, daily attendance in Ontario Court (Provincial Division) and weekly attendance in Ontario Court (General Division) on interlocutory motions and Landlord and Tenant trials.

June, 1986 to
June, 1987

Articled Student-at-Law
EVANS, PHILP
Barristers and Solicitors
1 King Street West
16th Floor
Hamilton, Ontario
L8P 1A4

Exposure to various areas of law including civil litigation, family law, criminal law, real estate and wills, labour law and administrative law.

Responsibilities

Drafting pleadings and other legal documents, researching and preparing memoranda of law, meeting clients, full carriage of Small Claims Court files, attendance on motions and adjournments in Ontario Court (General Division) and

attendance on motions and adjournments in Ontario Court
(Provincial Division)

Summer, 1985

Student-at-Law/Clerk
Unified Family Court
55 Main Street West
Hamilton, Ontario
L8P 1H4

Clerk for Justices Beckett, Goodearle, Mendes da Costa,
Steinberg and Van Duzer.

Responsibilities

Legal research, the provision of legal opinions, and the
preparation of briefs and memoranda for the five Justices.

Summer, 1984

Student-at-Law/Clerk
Unified Family Court
55 Main Street West
Hamilton, Ontario
L8P 1H4

Clerk for Justices Gravely, Steinberg and Van Duzer.

Responsibilities

Legal research, the provision of legal opinions, and the
preparation of briefs and memoranda for the three Justices.

EDUCATION

September, 1987 to
February, 1988

Law Society of Upper Canada
Bar Admission Course
Called to the Bar as a Barrister and Solicitor for the Province
of Ontario:
April, 1988

1983 to 1986

Osgoode Hall Law School
Juris Doctor Degree obtained: June, 1986

1980 to 1983 McMaster University
Bachelor of Arts Degree Obtained: May, 1983
Graduation Standing: 1 - Summa Cum Laude
Major: Political Science

1975 to 1980 Cathedral Boys' High School
S.S.H.G.D. Obtained: January, 1980

ACADEMIC AWARDS

1982 to 1983 Edwin Marwin Dalley Memorial Scholarship
McMaster University Dean's Honour List

1981 to 1982 Edwin Marwin Dalley Memorial Scholarship
McMaster University Dean's Honour List

1980 to 1981 McMaster University Chancellors' Scholarship
McMaster University Dean's Honour List

1979 to 1980 Ontario Scholarship
The Permanent Annual Student Writing Award
Reader's Digest Award
High School Class Valedictorian

PERSONAL/PROFESSIONAL ACHIEVEMENTS

1979 Class Valedictorian - Graduating Class - Cathedral Boys'
High School.

1983 Duty Counsel - Osgoode Hall Community Legal Aid
Services Programme.

1984 to 1985 Assisted Justice David M. Steinberg of the Unified Family
Court with research for his text, Family Law in the Family
Courts, Carswell, 1986.

1989

Article published, February, 1989
Hamilton Law Association Newsmagazine - "Arguing
Motions in District and Supreme Court: A Back to Basics
Guide".

Articles published, June, July/August, September and
December, 1989
Let's Talk Business Magazine - Hamilton and Niagara
Editions - Four part series on Business Contracts.

Guest Speaker - Cathedral Girls' High School
Topic - Tort Law and Civil Litigation.

Guest Speaker - Hamilton Catholic High Schools
Conducted mock civil trial.

Guest Speaker - C.H.M.L. Radio
John Hardy Show "Your Day in Court".

Travelled to Tokyo, Japan to conduct cross-examinations on
a complex commercial litigation matter involving a heavy
equipment distributorship agreement. Multi-million dollar
settlement ultimately achieved.

1990

Member - Editorial Board, Hamilton Law Association
Newsmagazine.

Member - Library Committee, Hamilton Law Association.

Article published, January, 1990
Hamilton Law Association Newsmagazine
"Far Eastern Observations".

Article published, June/July, 1990
Hamilton Law Association Newsmagazine
"Use of Factums in Motions Court".

Article published, September, 1990
Hamilton Law Association Newsmagazine
"Court Reform in the Central South Region".

1991

Member - Editorial Board, Hamilton Law Association
Newsmagazine.

Vice-Chairman - Library Committee, Hamilton Law
Association.

Article published, May, 1991
Hamilton Law Association Newsmagazine
"Civil Pre-Trials - Maximizing Their Effectiveness".

Article published, September, 1991
Hamilton Law Association Newsmagazine
"Interlocutory Injunction Applications - Practical Tips".

Guest speaker - Kelsey's Restaurant Managers' Meeting
Tort Liability for Serving Liquor in the Hospital Industry.

Guest speaker - LMC Management Consultants
Employment Law Seminar
Fiduciary Obligations of Employees.

1992

Trustee of the Board of Directors,
Hamilton Law Association.

Member - Editorial Board,
The Hamilton Lawyer Newsmagazine.

Member - Library Committee,
Hamilton Law Association.

Chairman - Young Lawyers' and Articling Students'
Committee
Hamilton Law Association.

Article published, September, 1992
Contact Magazine
"What to Expect in a Lawsuit".

Article published, September, 1992
The Hamilton Lawyer Newsmagazine
"Fiduciary Obligations of Real Estate Agents".

1993

Trustee of the Board of Directors,
Hamilton Law Association
Editor-In-Chief,
The Hamilton Lawyer Newsmagazine.

Member - Library Committee,
Hamilton Law Association.

Regular contributor to The Hamilton Lawyer Newsmagazine,
Restaurant Review column.

Guest speaker - Hamilton Law Association,
Practical Tips for the Courtroom.

1994

Trustee of the Board of Directors,
Hamilton Law Association.

Editor-In-Chief,
The Hamilton Lawyer Newsmagazine.

Member - Library Committee,
Hamilton Law Association.

Guest speaker - Hamilton Law Association,
Evidence: A Practical Guide.

Guest Speaker - C.F.M.U. Radio
"Court Process and Procedure".

Lecturer/Speaker - Ontario Trial Lawyers Association Spring
Conference
"Breach of Fiduciary Duty".

1995

Trustee of the Board of Directors,
Hamilton Law Association.

Member - Editorial Board
The Hamilton Lawyer Newsmagazine.

Guest Speaker - Hamilton Law Association
Preparing Witnesses to Give Evidence at Trial.

Guest Speaker - CHCH T.V.
2 on-air television appearances.

1996

Member - Advocates' Society.

Member - Editorial Board
The Hamilton Lawyer Newsmagazine.

Guest Speaker - Hamilton Law Association
Arguing Motions in Ontario Court (General Division).

Guest Speaker - The Advocates' Society
Alternative Dispute Resolution.

Guest Speaker - The Law Society of Upper Canada, The
Ontario Court of Justice and The Canadian Bar Association
- Ontario
The Simplified Rules of Civil Procedure.

1997

Member - Advocates' Society.

Member - Ontario Trial Lawyers Association.

Member - American Trial Lawyers Association.

Retained as Class Counsel on several large complex claims
under the Class Proceedings Act acting for hundreds of
thousands of class members in claims involving millions of
dollars.

Received significant media exposure regarding the Class
Action claims including Articles in The Globe & Mail, The
Financial Post, Toronto Star, etc.

1998

Member - Advocates' Society.

Member - Ontario Trial Lawyers Association.

Member - American Trial Lawyers Association.

Participation in Alberta Trial Lawyers Conference ("Rockies
Rendezvous"), Banff Springs, Alberta.

1999

Member - Advocates' Society.

Member - Ontario Trial Lawyers Association.

Member - American Trial Lawyers Association.

Guest Speaker - Ancaster Mens Club - Litigation Procedures and Class Actions.

Founding principal of e-incorp Inc., Canada's online corporate services provider.

2000

Member - Advocates' Society.

Member - Ontario Trial Lawyers Association.

Member - American Trial Lawyers Association.

Continuing involvement as Lead Counsel in large Class Action claims including attendances in New York and Vancouver in respect of such matters.

Article published - Lorman Education Services Seminar - "Employee Termination in Ontario: Navigating The Press - - Important Termination Concerns".

Guest Speaker - Downtown Rotary Club - The Internet: Changing the Dynamics of Small Business in Canada.

2001

Achieved successful settlement of Vanishing Premium Class Action Claim against Canada Life Assurance Company on a national basis on behalf of approximately 135,000 policyholders. Settlement Agreement signed February. Court Approval obtained April.

Travel to San Diego, California for participation in Association of Fundraising Professionals International Conference on Fundraising.

Founding principal of Freewills.com, an online free will-preparation service that uniquely links will-preparation with the encouragement and availability of charitable giving. Involvement included all aspects of business start-up including strategic vision, conceptualization, design and development of product, overall management, marketing and sales, operations, implementation, securing subscriptions, preparation of business plan, etc.

Guest Speaker - Lorman Education Services Seminar, Employee Leave Issues/Maternity and Parental Leave Issues, April 26, 2001.

Guest Speaker- Lorman Education Services Seminar, Employee Termination in Ontario: Navigating the Process - Important Termination Concerns, May 17, 2001.

Article published, Spring, 2001 issue of the "The Litigator. Journal of the Ontario Trial Lawyers Association" - "Class Proceedings and Product Liability Claims".

Achieved successful settlement of Vanishing Premium Class Action Claim against London Life Insurance Company on a national basis on behalf of approximately 890,000 policyholders (settlement value \$260M). Settlement Agreement signed June, 2001; Court approval obtained October, 2001; Final Court approval by Ontario Court of Appeal, February, 2002.

Travel to Indianapolis, Indiana for participation in National Association of Gift Planners Conference.

2002 Travel to St. Louis, Missouri for participation in Association of Fundraising Professionals International Conference on Fundraising.

Guest Speaker - Lorman Education Services Seminar - Employee Leave Issues April 27, 2002.

Guest Speaker - The Canadian Institute, Litigating Class Actions Seminar, September 26 and 27, 2002.

2003 Guest Speaker - Insight Conference: Class Actions - The Litigators' Conference, "Certification Update", January 27 and 28, 2003.

Guest Speaker - Ontario Trial Lawyers Association Spring Conference, Class Actions, May 31, 2003.

Achieved successful settlement of Class Action claim against Canada Post Corporation, Cybersurf Corp. and 3Web Corp. on a national basis on behalf of approximately 150,000 customers who purchased a CD-Rom product that did not function as represented. Settlement Agreement signed July, 2003; Court approval obtained December, 2003.

2004 Achieved successful settlement of Class Action claim against Bell Canada on a national basis on behalf of approximately 750,000 subscribers to Bell Canada's First Rate™ long distance plan in connection with unilateral

billing changes. Settlement Agreement signed March, 2004;
Court approval obtained May, 2004.

Received widespread media exposure in respect of
settlement of Bell First Rate Class Action, including articles
in Toronto Star (lead story in Business Section, etc.)
Hamilton Spectator, etc.

Appeared as guest commentator on legal issues on CH TV
"Live @ 5:30" television news program.

Received significant media exposure regarding new class
action claim against Bell Canada relating to modem
hijacking, including articles in the Toronto Star, Hamilton
Spectator, radio news broadcasts and appearances on CH
TV television news program.

Guest Legal Consultant on CH TV. Several on-air television
appears on various legal topics.

2005

Speaker at Advocate's Society, Court House Series,
seminar re: Mock Summary Judgment Motion and Effective
Advocacy in Motions Court, February 10, 2005.

Speaker at Cross-Border Commercial Litigation Seminar re:
Class Actions: Cross-Border Issues, April 7th and 8th, 2005.

Speaker at The 5th Annual Advocacy Conference, seminar
re: Class Actions: Nuts & Bolts of a Class Action, April 20,
2005.

Appeared as guest commentator on various legal issues on
CH TV "Live @ 5:30" television news program.

2006

Multiple Appearances as Guest Legal Consultant on CHML
radio program re: Payday Loan litigation.

Chairman of the 1st Annual Hamilton Law Association
Current Issues In Commercial Litigation Seminar held April
6, 2006.

2007

Co-Chairman of the 2nd Annual Hamilton Law Association
Current Issues In Commercial Litigation Seminar held April
12, 2007.

2008 Co-Chairman of the 3rd Annual Hamilton Law Association Current Issues In Commercial Litigation Seminar held March 27, 2008.

Member – Board of Directors of Mark Preece Family House—a family house to be located near the Hamilton General Hospital to provide close, accessible and affordable short-term accommodation for the families of adult patients in Hamilton hospitals.

2009 Co-Chairman of the 4th Annual Hamilton Law Association Current Issues In Commercial Litigation Seminar held March 12, 2009.

Member – Board of Directors of Mark Preece Family House.

Speaker at Hamilton Law Association 9th Annual Advocacy Conference re: Update on Class Actions, April 30, 2009.

Article published May, 2009 edition “Commercial Litigation Review” Volume 7, Number 2. Co-author of article on Blended Retainer Agreements with Heather C. Devine and James Tausendfreund(Gowlings)

Multiple Appearances as Guest Legal Consultant on CHML radio program re: Facebook Terms of Service, Access to Courts for terror victims, etc.

CERTIFICATIONS AND SUCCESSFUL RESOLUTION OF CLASS PROCEEDINGS

2010

Robinson v. Rochester Financial et al. – Certified, January 19, the Honourable Madam Justice Lax.

Levesque v. Ford Motor Company of Canada – Certified – January 21, the Honourable Mr. Justice Sproat.

2009

Zonolite Attic Insulation – CCAA Court approval of enhanced settlement on behalf of all Canadian ZAI claimants, December 13, the Honourable Mr. Justice Morawetz, Superior Court of Justice – Commercial Court, leave to appeal to the Ontario Court of Appeal denied February 19, 2010, Chief Justice Winkler, Justices MacPherson and Gillese;

Watson et al v. Northstar Aerospace, Inc., and Northstar Aerospace (Canada) Inc. – Certification and court approval of settlement, June 18, the Honourable Mr. Justice Perell.

2008

McCutcheon v. The Cash Store et al. – Court approval of settlement, December 2, the Honourable Mr. Justice Cullity.

Zonolite Attic Insulation – CCAA Court approval of settlement on behalf of all Canadian ZAI claimants, October 17, the Honourable Mr. Justice Morawetz, Superior Court of Justice – Commercial Court.

2007

Bellaire/LaRocca et al. v. Salim Daya and Hamilton Health Sciences Corporation, [2007] O.J. No. 4819 – Certification and court approval of settlement, December 14, the Honourable Madam Justice Hoy.

2006

McCutcheon v. The Cash Store et al, [2006] O.J. No. 2360 - Certified May 10, the Honourable Mr. Justice Cullity.

Jones v. Royal Botanical Gardens et al - Certification and court approval of settlement, September 28, the Honourable Mr. Justice Crane.

Humphreys et al. v. Select Financial et al., (Hamilton Court file No. 01-3510CP) (Unreported) - Certification and court approval of settlement, November 2, the Honourable Mr. Justice Crane.

Zonolite Attic Insulation – Appointed as Representative Counsel for all Canadian ZAI claimants, February 8, the Honourable Mr. Justice Farley.

2004

Sajecki v. Bell Canada - Certification and court approval of settlement, May 10, the Honourable Mr. Justice Crane.

2003

McArthur v. Canada Post Corporation et al, [2004] O.J. No. 1406 - Certification and court approval of settlement, December 22, the Honourable Mr. Justice Crane.

2001

Gibbs v. Canada Life Assurance Co., [2001] O.J. No. 6269 - Certification and court approval of settlement, April 4, the Honourable Mr. Justice Cumming.

Directright Cartage Ltd. v. London Life Insurance Co., [2001] O.J. No. 4073 - Certification and court approval of settlement, October 18, the Honourable Mr. Justice Cumming.

CURRENT CLASS PROCEEDINGS

Zonolite Attic Insulation – We act as Court appointed Representative Counsel on behalf of all Canadian claimants who have suffered property damage and/or personal injury loss as a result of exposure to Zonolite Attic Insulation.

McKee's Carpet Zone v. Sears Canada Inc., Sears, Roebuck and Co. and Home Coverings Buying Group Inc. – This proceeding is brought on behalf of all individuals or entities in Canada who/which entered into a license agreement with Sears for operation of a "Sears Floor Covering Centre", since 1998.

Stephanie Graham and Angela Miceli v. Imperial Parking Canada Corporation carrying on business as Impark – This proceeding is brought on behalf of all persons who parked a vehicle or whose vehicle was parked at an Impark parking lot and were charged and paid violation fees to Impark.

Levesque v. Ford Motor Company of Canada - This proceeding is brought on behalf of all individuals in Canada who were offered employment by Ford commencing in July, 2008 as part of a Third Work Shift at Ford's Oakville plant.

Penney et al. v. Bell Canada - This proceeding is brought on behalf of wireline telephone customers of Bell Canada, being persons who made arrangements or wireline telephone service to be installed in their homes between March 24 and December 31, 2005.