



David Foulds

Partner
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David is a commercial litigation lawyer.

David has successfully developed and maintained a broad commercial litigation practice, providing sophisticated and effective advice to clients involved in a wide variety of commercial disputes ranging from breach of contract cases to shareholder disputes and product recall cases.

David has extensive experience and particular expertise in the defence of Class Proceedings, disputes relating to intellectual property and technology, commercial disputes relating to infrastructure projects, including public-private partnerships and fraud and asset recovery.

David has represented clients in all levels of courts in Ontario, the Federal Court of Canada, a number of administrative tribunals and a variety of international and domestic arbitrations.

David was a member of the firm's Canadian Partnership Admission and Risk Management Committees from 2006 to 2014. He is also the former Chair of the Student Recruitment and Development Committee in the Toronto office.

LANGUAGES SPOKEN

- English

REPRESENTATIVE CLASS PROCEEDINGS EXPERIENCE

- representing a multi-national auto-parts manufacturer and its North American subsidiaries in the defence of multiple class proceedings alleging anti-competitive practices
- representing a multi-national manufacturer and distributor of data storage media in the defence of multiple class proceedings alleging anti-competitive practices relating to a wide-variety of products
- represented a consortium of third party publishers in a successful motion to decertify third party

- Conflict Management and Alternative Dispute Resolution
- Product Liability, Mass Torts and Product Stewardship
- Intellectual Property and Technology
- Litigation, Arbitration and Investigations
- Securities and Corporate Finance
- Cross-Border Litigation
- Construction, Engineering and Infrastructure Disputes
- Investigations
- IT and Telecoms Disputes
- Corporate and Securities Litigation
- Real Estate Litigation
- International Arbitration

- Media, Sport and Entertainment
- Government Contracting
- Industrials
- Technology

class proceedings seeking contribution and indemnity for any damages resulting from copyright infringement alleged to have occurred as a result of the electronic publication of articles originally published in print media

- represented a leading Canadian insurance company in multiple class proceedings relating to the performance of certain insurance products and related sales practices
- represented a Canadian publisher in the defence of a class proceeding alleging copyright infringement as a consequence of the electronic publication of articles original published in print media

- Financial Services

LANGUAGES
SPOKEN

English

REPRESENTATIVE INTELLECTUAL PROPERTY AND TECHNOLOGY DISPUTE EXPERIENCE

- representing a provincial professional accounting organization in the defence of a Federal Court trade-mark and competition law proceeding commenced by an international accounting body
- represented an informational technology solutions and infrastructure provider in a licensing dispute with a multinational computer hardware manufacturer and distributor
- represented a software developer in a licensing dispute with Canada's largest pharmacy chain relating to software designed to facilitate fulfilment and distribution of bulk prescriptions
- represented a network of photo speciality retailers in a copyright infringement dispute with a chain of technology stores
- represented a provider of outsourced operations and maintenance services in a dispute with a multinational software developer relating to the development and performance of a bespoke enterprise software solution
- represented a national automotive importer and distributor in a dispute with a multinational software developer relating to the development and performance of inventory management software
- represented a consortium of third party publishers in a successful motion to decertify third party class proceedings seeking contribution and indemnity for any damages resulting from copyright infringement alleged to have occurred as a result of the electronic publication of articles originally published in print media
- represented a publisher of children's literature in the defence of copyright infringement proceedings commenced by an individual claiming to have authored certain materials
- represented a privately-held bio-technology company in proceedings commenced in a variety of jurisdictions alleging shareholder oppression, misappropriation of corporate assets, and breaches of technology licensing agreements
- represented a multinational integrated technology solutions provider to the global hospitality industry in the defence of copyright infringement proceedings commenced by a competitor in relation to the source code underlying certain of the client's products
- represented a Canadian publisher in the defence of a class proceeding alleging copyright infringement as a consequence of the electronic publication of articles original published in print media
- representing multiple clients in trade-mark proceedings before the Trade-mark Opposition Board

REPRESENTATIVE PROJECT DISPUTES EXPERIENCE

- representing a private corporation responsible for operating and maintaining an extensive public highway network in negotiations and an arbitration to determine appropriate increases in annual operation, maintenance and rehabilitation fees relating to the highway
- representing a private corporation operating a public social infrastructure facility in a series of negotiations and dispute resolution procedures related to bench-marking exercises and change orders
- represented a design-build subcontractor in an accreditation dispute with the public sector owner of a social infrastructure facility
- representing an international construction company in a dispute relating to the design and construction of a hydro-electric project
- represented a design-build subcontractor in a dispute with a public sector owner and the private sector project sponsor concerning who bears responsibility for making certain third party payments relating to the development and construction of a social infrastructure facility
- represented the members of a private sector project consortium in a dispute arising with a subcontractor during the bid stage of a project
- represented members of the project consortium and design-build consortium in negotiations and public hearings arising in connection with the construction of a large transportation infrastructure project
- assisting public and private sector clients in negotiating effective and efficient dispute resolution procedures in project agreements

and ancillary documents

REPRESENTATIVE FRAUD AND ASSET RECOVERY EXPERIENCE

- represented investors in a number of luxury condominium and retail developments in urgent proceedings to recover funds misappropriated by a business partner
- represented a leading international financial services company in urgent proceedings to freeze and recover millions of dollars misappropriated by the members of a criminal credit card fraud ring
- represented a national telecommunications and cable provider in a number of investigations and urgent proceedings freezing and recovering millions of dollars misappropriated by employees and suppliers in a series of procurement frauds
- represented a high net worth individual in urgent multijurisdictional proceedings to recover monies misappropriated from an investment account
- represented an international film, television and music entertainment company in the investigation and resolution of allegations of fraud and misappropriation by a senior executive
- represented a public pension fund in the investigation and resolution of whistle-blower complaints alleging a multi-million dollar fraud within a subsidiary's IT department
- represented a leading North American title insurance company in multiple proceedings involving allegations of mortgage fraud
- represented a consortium of high net worth investors in recovering millions of dollars misappropriated through a complex series of mortgage frauds
- represented an international accounting firm in the investigation and resolution of whistle-blower complaints alleging fraud involving senior management
- represented a leading provider of secured payment solutions for merchants in North America and the United Kingdom in civil and criminal investigations relating to a data breach involving more than 45 million credit and debit cards
- assisted an industry association in developing a fraud and anti-corruption policy and related whistle-blower procedure

OTHER REPRESENTATIVE EXPERIENCE

- representing a multi-national food services company in the defence of a breach of contract claim commenced by a former service provider
- representing the directors, officers and minority shareholders of a privately-held corporation in proceedings alleging oppression and misappropriation of corporate opportunity
- representing a federal crown corporation in a breach of contract and negligence claim against a multinational corporation contracted to provide equipment and technology in connection with the refurbishment of a nuclear power generation facility
- represented a multi-national manufacturer and distributor of food products in a dispute with a packaging supplier relating to the causes for a product recall
- represented a multi-national waste management company in the defence of proceedings alleging a nuisance in the operation of a waste-management facility
- represented a North American logistics company in a complex multi-jurisdictional contract dispute with a customer
- represented individual family members in a dispute relating to the proper management of personal care and property of their elderly, high-net-worth parents
- represented a provider of outsourced services in the healthcare sector in a dispute with a regional hospital network
- represented a multi-national manufacturer of products for the beverage industry in a contract dispute with a former distributor
- represented a provider of managed digital media solutions in a contract dispute relating to operation and performance of a multi-location digital advertising network
- represented a provider of face-to-face fundraising services in a dispute with a competitor alleging breach of contract and misappropriation of confidential information

CREDENTIALS

Admissions

- Ontario, 1996

Recognitions

- *The Legal 500 Canada* (Intellectual Property), 2017-2018; (Dispute Resolution), 2018-2022

Education

- LL.B., University of Toronto, 1994
- B.A., English/History (Honours), University of Western Ontario, 1991

Memberships

- Member, Ontario Bar Association
- Member, Toronto Lawyers' Association
- Member, Advocates' Society

NEWS

DLA Piper Canada recommended by *Legal 500 Canada 2022*

12 November 2021

DLA Piper (Canada) LLP and its lawyers have been recommended in the latest edition of the *Legal 500 Canada*.

DLA Piper (Canada) LLP recognized in the 2021 edition of the *Legal 500 Canada*

13 November 2020

DLA Piper (Canada) LLP and its lawyers have been recognized as industry leaders across multiple practice areas in the latest edition of the *Legal 500 Canada*.
