



### David T. Neave

Counsel

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David Neave has extensive experience in defending class proceedings and has acted in more than 40 class actions brought in a wide range of areas including data breach, competition/restraint of trade, products liability, securities and banking.

David's defence work includes defending class action and individual claims against an international postal/package service in respect to an alleged data breach of customer data; international pharmaceutical manufacturers of a number of different prescription and OTC drugs; a recently filed class proceeding seeking health care costs recovery related to the opioid crisis; medical products manufacturers of a variety of devices (hip and knee replacement systems, spinal screws, pacemakers, emergency call systems, introducer systems); international food manufacturers; international airlines (cargo and passenger fees); international electronic manufacturers of various computer chips and other components; various financial institutions pertaining to interest and credit card charges; international heavy equipment manufacturers of forestry and marine equipment; and, manufacturers of a variety of auto parts. He has also represented securities brokerages and an international accounting firm on securities act matters.

David regularly appears before all levels of British Columbia courts and various regulatory tribunals.

Before joining the firm, David enjoyed a 20-year career with the Royal Canadian Mounted Police (RCMP). As part of its commercial crime section for 11 years, he conducted stock market manipulation investigations, and a variety of complex fraud and theft investigations. Just before leaving the RCMP, he acted as in-house counsel to the senior management of the RCMP in British Columbia.

- Product Liability, Mass Torts and Product Stewardship
- International Risk Management
- Litigation, Arbitration and Investigations
- Securities and Enforcement Litigation

- Life Sciences

English

## LANGUAGES SPOKEN

- English

## Admissions

- British Columbia, 1993
- Ontario, 2014

## Recognitions

- *Best Lawyers in Canada* (Class Action Litigation), 2010–2023; (Corporate and Commercial Litigation), 2014–2023
- *Chambers Canada* (Dispute Resolution: Class Action (Defence)), 2016-2022; (Litigation: Products Liability), 2017-2022; (Litigation: General Commercial), 2020-2022
- *Chambers Global* (Dispute Resolution: Class Action (Defence), 2014–2017
- *Legal 500 Canada* (Dispute Resolution), 2017-2022; (Competition and Antitrust), 2019-2022; (Transport: Aviation), 2021-2022
- *Canadian Legal Expert® Directory* (Class Actions), 2015-2016, 2019-2020; (Competition Law), 2015-2021
- *LMG Life Sciences Directory*, Life Sciences Star in Canada, 2019
- *Who's Who Legal: Canada* (Life Sciences), 2013–2017, 2021; (Product Liability Defence), 2013, 2016, 2021
- *Who's Who Legal: Life Sciences* (Product Liability), 2018, 2022
- Litigation Star, *Benchmark Litigation* (Class Action, Competition, Product Liability and Securities), 2014-2019; (White Collar Crime), 2016-2019

## Education

- LL.B., University of British Columbia, 1992
- B.Sc., Trent University, 1974

## Memberships

- Member, Class Action, Civil Litigation and Products Liability Subsections, Canadian Bar Association

## INSIGHTS

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### Publications

#### Key amendments to Canada's *Competition Act*

1 July 2022

On June 23, 2022, the Canadian government passed legislation amending the *Competition Act*. The key changes relate to: maximum fines and penalties; wage-fixing and no-poaching agreements between employers; drip pricing; evidence gathering; and merger review.

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#### White collar, corporate crime and investigations: End of year review 2021

4 January 2022

2021 featured the ongoing uncertainty, challenges and risk for businesses associated with COVID-19 pandemic. Despite the challenges, compliance programs, investigations and proceedings continued as close to normal as possible, with adjustments made to adapt the "new normal". In this 2021 Year In Review, we offer key updates from the year past and offer our predictions on 2022 and beyond.

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#### Canada: Federal court denies motion to certify proposed antitrust class action alleging conspiracy to suppress supply of DRAM

3 December 2021

In a recent decision of the Federal Court of Canada, Justice Gascon refused certification, without leave to amend, of a proposed competition law class action alleging that three leading manufacturers (Samsung, SK Hynix and Micron) of Dynamic Random Access Memory Chips (DRAM), a semiconductor memory chip used in most computer products, conspired to limit the global supply and raise the price of DRAM.

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### **Up, up and away: BC Court of Appeal dismisses unjust enrichment class action against international airlines**

15 SEP 2017

On September 12, 2017, the BC Court of Appeal upheld the decision of the B.C. Supreme Court in *Unlu v Air Canada*, 2015 BCSC 1453, refusing to certify as class proceedings five separate actions against each of Air Canada, Deutsche Lufthansa Aktiengesellschaft, Delta Air Lines, Inc., United Air Lines, Inc., and British Airways PLC.

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### **Gatekeeping - stops class action cold!**

6 DEC 2016

On 16 November 2016, Madam Justice Dillon issued her decision in *Harrison v. Afexa Life Sciences Inc.*, 2016 BCSC 2123, denying the certification of a class action against the makers of Cold-Fx under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50. Dillon J. confirmed the court's important gatekeeping role is to ensure that the powerful machinery of class proceedings legislation is only invoked to assist genuine plaintiffs with genuine claims.

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### **Interaction between Ontario Securities Act and the Class Proceedings Act: Supreme Court of Canada trilogy affirms the reasonably low threshold for leave under the Ontario Securities Act**

8 DEC 2015

The decision provides helpful insight into the balance struck between parties in securities class actions and reaffirms the applicable standard to obtain leave under the *OSA* in order to commence a statutory secondary market misrepresentation claim under the *OSA*.

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### **BC Supreme Court dismisses applications for certification of consumer protection claims in five class actions against international airlines**

27 AUG 2015

On August 18, 2015, Madame Justice Adair of the B.C. Supreme Court refused to certify as class proceedings five separate actions against international airlines. *Unlu v. Air Canada*, 2015 BCSC 1453 is an important decision for consumer protection claims in British Columbia.

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### **The preliminary merits test for secondary market claims is not just a "speed bump" to certification: The Supreme Court of Canada clarifies the test with its decision in *Theratechnologies Inc. v. 121851 Canada Inc.***

5 MAY 2015

Following amendments made in the last decade to various provincial Securities Acts to include statutory causes of action in the secondary market against public issuers for misrepresentation and/or failure to make timely disclosure to investors there has been ongoing debate about the appropriate threshold test for obtaining the requisite leave to commence a secondary market class action.

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## The Marcotte Decision: The Supreme Court of Canada rules against banks in provincial consumer protection class action

22 Sep 2014

On September 19, 2014, the Supreme Court of Canada (the "Court") ruled in *Bank of Montreal v. Marcotte* ("Marcotte") that Quebec's consumer protection legislation is applicable to federally regulated banks such that it provides the basis for consumer class actions in Quebec against those banks.

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## Events

### Previous

#### White Collar Crime, Investigations and Compliance Symposium

5 October 2021

Webinar

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## SPEAKING ENGAGEMENTS

- Speaker, "Fuel Surcharge Class Action", CBABC Air & Space Law Section Meeting, November, 2015.
- Panelist, "Recent Developments in Consumer Class Actions: The End of Waiver of Tort in Consumer Class Action Cases?", Class Actions Forum West, The Canadian Institute, May, 2015.
- Presenter, "Class Actions in Canada - a Primer", DLA Piper (Canada) LLP, June, 2015.

## NEWS

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#### DLA Piper Canada increases rankings in 2023 *Chambers Canada* guide

30 September 2022

DLA Piper (Canada) LLP and its lawyers have been recognized across 16 practice areas in the 2023 edition of *Chambers Canada*.

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#### DLA Piper (Canada) LLP shortlisted for LMG Life Sciences Awards 2022

28 July 2022

DLA Piper (Canada) LLP is thrilled to be shortlisted as Canadian Product Liability Firm of the Year, Life Cycle Firm of the Year - Canada and Canadian Financial & Corporate Firm of the Year, by the LMG Life Sciences Awards 2022.

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#### 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*.

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### **Five DLA Piper Canada partners named Leading Life Sciences Lawyers**

5 October 2021

Five DLA Piper Canada partners have been named Leading Life Sciences Lawyers in Canada by the Legal Media Guide's (LMG) 2021 Life Sciences ranking guide, while the firm was recommended in the area of Product Liability.

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### **DLA Piper Canada recommended in 2022 edition of *Chambers Canada***

10 September 2021

DLA Piper (Canada) LLP and its lawyers have been recognized across 15 practice areas in the 2022 edition of *Chambers Canada*.

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### **DLA Piper (Canada) LLP recognized in the 2022 *Best Lawyers in Canada* guide**

26 August 2021

DLA Piper (Canada) LLP is thrilled to see 84 of our lawyers across 35 practice areas recognized in the 2022 Best Lawyers in Canada guide.

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### **DLA Piper Canada shortlisted for 2021 LMG Life Science Awards**

4 August 2021

DLA Piper (Canada) LLP is pleased to announce that the firm was shortlisted as Canadian Product Liability Firm of the Year by the Legal Media Guide's (LMG) 2021 Life Sciences Awards.

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### **DLA Piper Canada has strong showing in 2021 *Canadian Legal Lexpert Directory***

22 April 2021

DLA Piper (Canada) LLP has increased their rankings in the Canadian Legal Lexpert Directory for the third consecutive year.

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### **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*.

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### **Five DLA Piper (Canada) LLP partners named LMG Life Science Stars**

5 October 2020

Five DLA Piper Canada partners have been awarded Life Science Stars in Canada by the Legal Media Guide's (LMG) 2020 Life Sciences ranking guide.

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