



## Kirsten Crain

### Partner

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Kirsten is an experienced trial lawyer. She has conducted trials and hearings across the country. **Kirsten's broad litigation practice includes complex commercial litigation** (including class actions and multi-jurisdictional proceedings), intellectual property litigation and professional negligence and administrative law matters.

She appears as counsel in the Federal Court of Canada and before the Superior Courts of Ontario and Québec. She has also represented clients in a vast range of administrative law proceedings before national and provincial tribunals and boards, as well as Coroner's courts. In addition to courtroom advocacy, Kirsten is a trusted advisor to boards and senior leaders. Kirsten is a Fellow of the American College of Trial Lawyers.

She is a director of The Advocates' Society and the BLG LLP Partnership Board.

## Experience

- Counsel to Canadian Pacific Railway Ltd. in the trial of three actions, including a class action, in respect of the 2013 train derailment in Lac-Mégantic. 2022 trial decision in the Superior Court of Quebec under reserve, *Ouellet v. Compagnie de chemin de fer Canadian Pacifique*.
- Counsel to the City of Ottawa in a breach of contract claim involving ClubLink Corporation ULC, *Ottawa (City), v. ClubLink Corporation ULC*, 2021 ONCA 847, and 2021 ONSC 1298.
- Counsel to Queensway Carleton Hospital in a hearing pursuant to the *Public Hospitals Act, Brar v. Medical Advisory Committee, Queensway Carleton Hospital, 2022*. Appeal pending before Health Professions Appeal and Review Board.

- Counsel to M-I L.L.C. a large multinational company in the Schlumberger family supplying goods and services to oil and gas companies in a patent infringement trial and appeal, *Western Oilfield Equipment Rentals Ltd. v. M-I L.L.C.*, 2020 F.C.A. No. 323, and [2019] F.C.J. No. 1535.
- Counsel to Samsung Electronics Canada Inc. and Samsung Electronics America Inc. in respect of a third party production motion in Federal Court relating to a patent infringement dispute, *Rovi Guides, Inc. v. Videotron G.P.*, 2019 FCA 321 and 2019 FC 1220.
- Counsel to a provincial Crown Corporation in a patent infringement trial in the gaming sector, *Safe Gaming Systems v. Atlantic Lottery Corporation and Nova Scotia Provincial Lotteries Corporation*, [2018] F.C.J. No. 567.
- Counsel to related corporations in the aerospace sector in a tort claim relating to the renewal of a supply agreement, *2Souce Manufacturing Inc. v. United Technologies Corporation*, 2017 ONSC 4409.
- Counsel to clients in examinations under the Conflict of Interest Act and investigations under the *Public Servants Disclosure Protection Act*.
- Counsel for M-I L.L.C. a large multinational company supplying goods and services to oil and gas companies worldwide in a patent infringement case. Federal Court trial October/November 2018, decision pending, *Western Oilfield Equipment Rentals Ltd v. M-I L.L.C.*
- Counsel for a provincial Crown Corporation in a patent infringement case in the gaming sector, *Safe Gaming Systems v. Atlantic Lottery Corporation and Nova Scotia Provincial Lotteries Corporation*, [2018] F.C.J. No. 567.
- Counsel for corporations in the aerospace sector in a tort claim relating to the renewal of a supply agreement, *2Souce Manufacturing Inc. v. United Technologies Corporation*, ONSC 4409, July 7, 2017.
- Counsel for a corporation in the nuclear science sector and a federal Crown Corporation in an injunction proceeding for the delivery of irradiated cobalt pursuant to a supply agreement, *Best Theratronics Ltd. v. Canadian Nuclear Laboratories Ltd.*, [2016] O.J. No. 2398.
- Counsel to hospitals in inquests under the *Coroners Act*.
- Counsel for regulated health professionals in respect of disciplinary proceedings before various Colleges.
- Counsel for the City of Ottawa in an appeal to the Federal Court of Appeal in respect of a decision of the Canadian Transportation Agency relating to a railway line operated by the City, *City of Ottawa v. Canadian Transportation Agency*.

## Insights & Events

- Author, "Top commercial decisions of 2022", BLG Article, February 2023
- Co-Chair, "Preparation Series: Opening Statement and Closing Argument", The Advocates' Society, September 2021.
- Speaker, "The Year in Review: Key Cases in 2020" The Advocates' Society Spring Symposium, April 2021.
- Author, "Physician unsuccessful in claim of age discrimination against hospital", BLG Article, March 2021
- Author, "Hospitals Not Responsible for Costs of Physician Retraining or Clinical Supervision", BLG Article, July 2019
- Speaker, "Best Practices in Medical Malpractice Litigation," Law Society of Ontario (Toronto), June 2018.
- Panelist, "Demonstration and Commentary: Examining and Cross-Examining Experts," Advocacy in Ottawa Symposium: Superior Court, Federal Court and Beyond, The Advocates' Society, May 11, 2018.
- Author, "Validity of Physician Duty to Provide Effective Referrals to Patients Upheld", BLG Article, February 2018

- Co-Chair, "Women in Litigation Symposium," The Advocates' Society, February 2017.
- Author, "New Expanded Duty to Notify the College of Physicians and Surgeons of Ontario", BLG Article, August 2016
- Author, "Decisions By Hospital Committees Can Be Reviewed By The Courts", BLG Article, April 2016

## Beyond Our Walls

### Professional Involvement

- Director, The Advocates' Society
- Vice-Chair, Education Committee, The Advocates' Society
- Member, Standing Committee on Advocacy and Practice, The Advocates' Society
- Member, Ottawa Civil Bench and Bar Committee
- Member, Ontario Superior Court of Justice Civil Working Group
- Fellow, American College of Trial Lawyers
- Skills Instructor, The Advocates' Society

## Awards & Recognitions

- Selected by peers for inclusion in the 2024 edition (and since 2015) of *The Best Lawyers in Canada*® (Health Care Law, Medical Negligence), and since 2019 (Administrative and Public Law, Corporate and Commercial Litigation).
- Recognized in the 2024 edition (and since 2021) of *Benchmark Canada - The Definitive Guide to Canada's Leading Litigation Firms & Attorneys* as a Litigation Star and in the "Top 100 Women in Litigation", and in the 2020 edition (and since 2015) as a Future Star.
- Recognized in the 2023 edition (and since 2020) *Lexpert Special Edition: Litigation*.
- Recognized in the 2024 edition (and since 2022) of *The Canadian Legal Lexpert® Directory* (Litigation - Corporate Commercial and Medical Negligence), and the 2021 edition (Litigation - Regulatory & Public Law).
- Recognized by *Best Lawyers in Canada* as the 2022 'Lawyer of the Year' in Ottawa for Health Care Law.
- Recognized in the 2021 edition of *Lexpert Special Edition: Health Sciences*.
- Named "Lawyer for the Year" in Health Care Law, Ottawa (2022). Recognized in the 2021 edition of *The Best Lawyers in Canada* (Corporate and Commercial Litigation, Health Care Law and Medical Negligence) as the 2017 Ottawa Medical Negligence Lawyer of the Year. And in the 2021 edition (Administrative and Public Law).
- Recognized in Acritas Stars 2019: Independently Rated Lawyer (Nominated as a stand-out lawyer by senior in-house counsel).
- Recognized in the 2018 edition (and since 2013) of *The Canadian Legal Lexpert® Directory* (Medical Negligence). Also recognized in the 2018-2017 editions (Litigation — Public Law) and the 2018-2016 editions (Litigation — Corporate Commercial).

## Bar Admission & Education

- Ontario, 2001
- LL.B (Great Distinction, Dean's Honour List), McGill University, 1999



- M.Sc. (Distinction), London School of Economics and Political Science, 1996
- B.A. in Economics (Distinction), McGill University, 1995

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As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 725 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

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