



BOS ♦ LAW

Bertschi Orth Solicitors and Barristers LLP/s.r.l.

David A. Bertschi Partner

Call to the Bar: 1985

Language(s): English & French

Education

- ❖ LL.B., University of Windsor, Windsor, Ontario (1983)
- ❖ B.A., Carleton University, Ottawa, Ontario (1980)

Areas of Practice

- ❖ Insurance litigation
- ❖ Commercial and Corporate litigation
- ❖ Construction litigation
- ❖ Employment litigation

Practice Summary

For 30 years David has restricted his practice to insurance disputes and related litigation. He advises insurers, self-insured corporations, non-profit organizations, small and medium businesses and individuals on insurance, commercial, employment and human rights litigation.

David has acted as Counsel on coverage issues and in personal injury, accident benefits, property and casualty, commercial general liability, fire, fidelity, excess and reinsurance as well as in life and disability claims.

He continues to act as trial and coverage counsel on complex multi-party, multijurisdictional catastrophic losses.

David has the expertise to quickly identify key issues and fully develop appropriate strategies to successfully advance our client's position on any insurance, inter-jurisdictional, commercial or civil litigation related dispute.

Fluently bilingual, David is also an Accredited Mediator which he uses daily in negotiating on behalf of the firm's clients in court connected or private mediation, arbitration and neutral evaluations.

BOS ♦ LAW

David is committed to finding the most cost-effective resolution for our clients including local, national, and international insurance and reinsurance clients.

Reflecting his substantial experience in insurance litigation, David has been invited to write and speak on complex issues of interest to insurers and self-insured corporate clients. He has spoken on such cutting edge topics as Catastrophic Impairment and the AMA Guides, Aggravated and Punitive Damages, Employer and Commercial Host Liability, Uninsured and Underinsured Liability, Forum Non-Conveniens, Trucking and Transportation Law.

David has spoken at the request of the Advocate's Society on the Art of Cross-Examination and on Insurance matters by The Law Society of Upper Canada, The Ontario Bar Association, the Canadian Society of Medical Evaluators, The Canadian Chamber of Commerce, Canadian Defence Lawyers, The Federation of Defence and Corporate Counsel, the Canadian and the International Association of Life Care Planners. David has also spoken at a number of higher learning institutions including Carleton University and the Ottawa University, the University of Windsor, the Richard Ivey School of Business at the University of Western Ontario, Memorial University and at Dalhousie University.

David also taught at Carleton University in business Law, at the Ontario Bar Admission Course in Civil Procedure and at the International Institute for Research.

When combined with his extensive professionalism, education, presentations and association Memberships, David's high-profile role as a speaker and writer ensures that he is familiar with the most recent decisions and the latest trends in Insurance and Commercial law fields so that he can deal with his clients' problems in the most effective manner to their satisfaction.

David is an experienced advocate and has appeared before a variety of judicial and administrative tribunals.

David is a former part-time Assistant Crown Attorney and Ontario Human Rights Tribunal Prosecutor.

David has appeared before all levels of the Trial and Appellate Courts in Ontario and at the Federal court of Appeal and before a variety of Boards, Tribunals and Arbitration Panels.

David also has experience in employment and construction litigation.

Advocacy Affiliations

- ❖ Federation of Defense & Corporate Counsel (International Practice and Law Section - Chair)
- ❖ Canadian Defence Lawyers (Board of Directors-Secretary Treasurer)
- ❖ Ontario Bar Association (Board of Directors for the Insurance Section, 2010-2012)
- ❖ Advocates Society
- ❖ Carleton County Law Association
- ❖ l'Association des juristes d'expression française de l'Ontario
- ❖ Defence Research Institute (U.S.) - International Law Committee

BOS ♦ LAW

Selected Papers and Seminars Delivered

- ❖ Chair and Moderator, "Preparing and Eliciting Expert Testimony at Trial", Canadian Defence Lawyers Symposium, Ottawa, Canada, May 7th, 2013.
- ❖ Author, "Contributor to the A.S.K. - Advisors Seeking Knowledge – A Comprehensive Guide to Succession and Estate Planning" (LexisNexis, 2013). Referred to as "The Dr Spock" reference for succession planning experts, public accountants and the wealth management communities, David wrote and edited the A.S.K's chapter on Insurance Law [2013].
- ❖ Speaker, "Preparing Expert Testimony", Canadian Society of Medical Evaluators, Ottawa, Ontario, Friday, November 16, 2012.
- ❖ Speaker and Panelist, "Traumatic Brain and other related sports injuries: the Canadian legal perspective." The Federation of Defense and Corporate Counsel, Summer Conference, Plenary session, British Columbia, August 1, 2012.
- ❖ Moderator and Panelist, "Conflict of Laws an update on Forum non Conveniens" The Federation of Defense and Corporate Counsel, International Practice and Substantive Law Section Meetings, British Columbia, July 30th, 2012.
- ❖ Speaker and Panelist, "The Virtual Cocktail Party-Marketing your Practice", ADR & International and Substantial Law Practice Section Meetings, Phoenix, Arizona, February, 2012.
- ❖ Speaker and Panelist, "The Evolution of the Statutory Accident Benefit Schedule-First Party Benefits in Motor Vehicle Accident Claims, The Canadian Society of Medical Evaluators Toronto, November 18, 2011.
- ❖ Speaker and Panelist, "The Evolution of the Statutory Accident Benefit Schedule-First Party Benefits in Motor Vehicle Accident Claims", the Canadian Society of Medical Evaluators. Ottawa, November 4th, 2011.
- ❖ Speaker, "How to succeed when applying Ontario's new Rules of Civil Procedure to Expert evidence [and other miscellany]." Canadian Defence Lawyers Annual Continuing Legal Education Symposium, Vancouver, British Columbia, September 15, 2011.
- ❖ Speaker, Moderator and Panelist, "International Commercial Arbitration". Federation of Defense and Corporate Counsel, International Practice and Substantial Law section, Williamsburg Virginia, July 28, 2011.
- ❖ Speaker and moderator, "Update on Forum Non-Conveniens" Federation of Defence and Corporate Counsel, International Practice and Substantial Law section, Williamsburg Virginia, July 28, 2011
- ❖ Speaker, "Canadian law and NAFTA; Can oil, gas and water between Canada and the United States really mix?" Federation of Defence and Corporate Counsel, Plenary session, Indian Wells, California, March 3, 2011.
- ❖ Speaker, "Understanding the Myths and the Realities of the business of the practice of law", Ontario Bar Association – Young lawyers division, Ottawa, February, 2011.

BOS ♦ LAW

- ❖ Speaker, "Subrogation and Spoilation" ASAP, Education and Training Resources Session, Ottawa, December 1, 2010.
- ❖ Program Chair and Moderator "Insurance Law: A practical guide to Expert Opinion under the new Rules of Civil Procedure", Ontario Bar Association, Toronto, Ontario, November 23, 2010.
- ❖ Keynote speaker, "The need for National IME standards". Canadian Society of Medical Evaluators, 2010 an Authoritative Insurance Update. Toronto, Ontario, November 19, 2010.
- ❖ Paper, "The new Rules of Civil Procedure in Ontario and their applicability to Life Care Planners testifying in Canada – Advice for the Life Care Planners who prepare report and testify at trial or arbitration". 2010 International Symposium for Life care planning, Orlando, September, 2010.
- ❖ Speaker and Panelist, "Sex Lies and Videotapes - Cyber Liability in a Digital World" - Federation of Defence and Corporate Counsel, summer meeting - Plenary session, Munich, Germany, July 29, 2010.
- ❖ Speaker, "A Look at the Top Ten Cases in Canada and Foretelling Things to Come", Annual General Meeting and Conference, Canadian Defence Lawyers, Toronto, Canada. June 3, 2010.
- ❖ Speaker and Panelist, "The New Rules of Civil Procedure and the Proposed Changes to the Statutory Accident Benefits Schedule", Gore Mutual Insurance Company, Seminar for claims management and claims personnel, Cambridge, Ontario, March 22, 2010.
- ❖ Speaker and Panelist, "Bodily Injury Claims and the Current Automobile Scheme in Ontario, the Duty of Insurers, Advanced Payments, Litigation, Mediation, Joint and Several Liability, Protected Defendants and the Statutory Accident Benefits Schedule", Mutual Insurers Association of Canada AGM, Cambridge, Ontario, March 10, 2010.
- ❖ Speaker and Panelist, "Protecting the Corporate defendant north of the 49th parallel", FDCC - Trial tactics, International Practice and Substantive Law Section meeting, Orlando, Florida, February, 2010.
- ❖ Speaker, "Testifying as an expert in the Canadian legal system" - International Symposium on Life Care Planning, Chicago, September 26, 2009.
- ❖ Speaker and Moderator, "Forum Non- Conveniens around the World." Substantive Law Section meetings of the Federation of Defence and Corporate Counsel, Virginia, July 29, 2009.
- ❖ Author, "Insurance Law Primer"- The T.A.S.K. - The Trusted Advisor's Survival Kit - published by Lexis Nexis 2009. Referred to as "The Dr Spock" reference for succession planning experts, public accountants and wealth management communities, David wrote and edited the T.A.S.K's chapter on Insurance Law (2009).
- ❖ Speaker and Panelist, "Revision to the Rule of Civil Procedure in Ontario and their impact on Productions and Privilege and Collateral Benefit Deductibility." - Belair Insurance - Seminar for claims management and claims personnel, Ottawa - April 2009.
- ❖ Speaker and Panelist, "Current trends and pitfalls in Canadian Transportation Cases" Substantive Law Section Meetings of FDCC, Hawaii, February 25th, 2009.

BOS LAW

- ❖ Speaker, "Commercial General Liability Policies" - Ottawa Valley Adjusters Association, Mid-Winter Meeting, Ottawa, February 17th, 2009.
- ❖ Speaker, "Managing litigation and risk exposure", Carleton University, Ottawa, Ontario, November 25, 2008.
- ❖ Speaker and Panelist with Dr. Arthur Amies, Dr. Ken Reesor and J. Simmons at the Catastrophic Impairment Determination and the AMA Guides Conference, Sudbury, Ontario, October 2008.
- ❖ Speaker, "Expert Witness, Direct Examination and the Wave of the Future", Canadian Defense Lawyers, Trial Tactics Conference, "What you must know to win from Ontario's Top Defence Counsel", Toronto, ON, Canada. October 6, 2008.
- ❖ Speaker, "Condominium Corporation Liability", Presentation on Practical and Legal Strategies for Condominium Corporations, Directors and Managers, Ottawa, Canada, September 28, 2008.
- ❖ Speaker and Panelist, "Crafting winning responses to RFP's." Management, Economics and International Law Practice Section", Federation of Defence and Corporate Counsel Conference, Banff, Alberta, Canada. August 1, 2008.
- ❖ Speaker, "How to Avoid Bad Faith Exposure" - Ontario Insurance Adjusters Association - Annual General Meeting - Ottawa, Canada, June, 2008.
- ❖ Speaker and Panelist, "Emerging Issues in Damages", Hot topics in Motor Vehicle Insurance Law, hosted by the Law Society of Upper Canada, the Ontario Bar Association, the University of Ottawa and The Carleton County Law Association - Ottawa, May 2008.
- ❖ Speaker, "Review of Current Case Law" at the Catastrophic Impairment, Determination and the AMA Guides Conference, Ottawa, December 12th, 2007.
- ❖ Speaker, "Preparing the Expert for Trial", Chiropractic Association, Annual General Meeting, Ottawa, November, 2007.
- ❖ Speaker, "Developments in Extra-contractual liability", property and casualty insurer, Ottawa, Canada, August 8, 2007.
- ❖ Speaker and Moderator, "How to avoid bad faith exposure for both you and your employer when working in the Insurance industry". Ontario Insurance Adjusters Association, Annual Out-of-town meeting, Ottawa, June 5, 2007.
- ❖ Speaker, "Alcohol liability in Ontario" Legal Talk-Radio Chin, Ottawa, April 4, 2007
- ❖ Speaker, "Punitive and Aggravated damages- adjuster liability", paper presented to the Ottawa Valley Adjusters Association in Ottawa, Canada on January 16th, 2007.
- ❖ Speaker, "Social, Employment and Commercial Host Liability in the University Setting", Paper presented to the Canadian Association of University Solicitors in Kingston, Ontario, Canada, September, 2006.
- ❖ Speaker and Panelist, "Bad Faith Litigation in Canada" presented to Claims management personnel at ING, Ottawa, August, 2006.
- ❖ Speaker, "Extra-contractual Liability is on the horizon", paper presented at the Out of Country Health Coverage Seminar sponsored by Optimum Re Insurance, Toronto, Ontario, Canada, May 6, 2006.

BOS LAW

- ❖ Speaker, “Commercial and Social Host Liability”, paper presented to the Insurance Broker Association, Ottawa, Ontario, Canada, March, 2006.
- ❖ Speaker, “A Primer for Navigating the Congestion of the Uninsured, Underinsured and Unidentified Motorist Cover”, paper presented at the Ontario Bar Association, Hot Topics in Motor Vehicle Insurance law conference, Toronto, Canada, November, 2005.
- ❖ Speaker, “Problems with Reinsurance in the Canadian context” EU-LEX Conference, Toronto, Canada, October 14th, 2005.
- ❖ Speaker and Panelist, “Aggravated and Punitive Damages” Canadian Defence Lawyers Symposium on A Primer for Litigating Disability Claims, Toronto, February 4, 2005.
- ❖ Speaker and panelist, “Canada’s new privacy law - PIPEDA, Commercial and Social Host Liability”, papers presented at the Canadian University Reciprocal Insurance Exchange Conference, Carleton University, Ottawa, November 25 and 26, 2004.
- ❖ Speaker and Panelist, “Legal Issues for Life Care Planners”, paper presented to the Canadian Institute of Life Care Planners at the Sprott School of Business, Carleton University, Ottawa, Ontario, Canada, September 10, 2004.
- ❖ Speaker and Panelist, “Canada's new Privacy Act, PIPEDA”, Ottawa Valley Adjusters Association, Ottawa, Canada, April 29, 2004.
- ❖ Speaker, “PIPEDA and the Insurance Industry”, Royal Sun Alliance claims management and personnel, Ottawa, a Canada, February 27, 2004.
- ❖ Speaker and Panelist, “Bill 198: Ontario's Amendments to the Insurance Act: the next Mutation- Challenges and Pitfalls” Carleton County Law Association – Civil Litigation Symposium – practical skills for the litigator, Montebello, Quebec, November 29th, 2003.
- ❖ Speaker, “Risk Management and Ontario Universities”, Ontario University Risk Management Workshop, Canadian University Reciprocal Insurance Exchange, Ottawa, November, 2003.
- ❖ Presenter, “Commercial and Social Host Liability”, Transportation Association of Canada, Ottawa, November 18th, 2003.
- ❖ Presenter, “Stock Broker Liability”, National Bank Financial, Ottawa, Canada, August 6, 2003 and October 10, 2003.
- ❖ Speaker, “Alcohol Liability in Ontario” - current issues relating to Social Hosts and Occupier's Liability” – Insight Professional Seminars for Risk Managers, Claims personnel and lawyers, Toronto, November, 2002.
- ❖ Speaker, “Social Host and Ontario Motor Vehicle Law”, paper presented to claims representatives of the Insurance Corporation of British Columbia, September 19, 2002.
- ❖ Guest Speaker, Bad Faith Claims: The Development of a Distinctive Canadian Approach or California North”, Commercial Litigation Conference, Insight Publications, Hyatt Regency in Vancouver, B.C., September 17, 2002.
- ❖ Speaker, “Practical legal considerations for Rehabilitation practitioners in the 21st Century”, Canadian Association Rehabilitation Professionals, Ottawa, March 28, 2001.

Awards

- ❖ Queen's Diamond Jubilee Medal, Province of Ontario, July 2012
This medal pays special tribute to Queen Elizabeth II's 60 years on the throne and honours her life-long commitment to her responsibilities, by recognizing those who have made significant contributions to Ontario and Canada. "I encourage all Ontarians not to miss this great opportunity to nominate members of their community who share the Queen's outstanding qualities of kindness and devotion to duty, and her spirit of dedication to the public.
- ❖ Orleans Chamber of Commerce, 2011 Professional of the Year
- ❖ Reach-Resource Education Advocacy Centre for the Handicapped (REACH), Volunteer Lawyer of the Year, April 2004
- ❖ L'Expert -Recognized Insurance Lawyer, 1994
- ❖ University of Windsor -Faculty of Law - Gold Medal for Extracurricular and Academic Merit, 1983

Representative Work

For a listing of the numerous cases in which Mr. Bertschi has successfully acted for clients, please contact David Bertschi at dbertschi@boslaw.ca

For a further listing of speaking engagements and papers presented by David Bertschi, including :“Breaking new ground – the use of DNA in the insurance industry”, Insurance Law for Condominium Corporation's, Director and Owners liability”: "The interplay between the Workers Safety Insurance Board and the Insurance Act", " Inter jurisdictional claims", " Extra – contractual Liability" and "The effective use of surveillance in litigation", please contact David by email at dbertschi@boslaw.ca. or by phone at 613-749-4700.