



# David A. Bertschi Partner

BERTSCHI ORTH SMITH L.L.P.

Call to the Bar: Ontario 1985  
Languages: 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 over 25 years David has restricted his practice to insurance disputes and related litigation. He advises insurers on coverage issues and is defence counsel on personal injury, accident benefits, property and casualty, commercial general liability, 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, multi-jurisdictional catastrophic losses.

David has the expertise to quickly identify key issues and fully develop appropriate defences in connection with these claims. He also provides advice to insurers and self-insured institutions on a multitude of insurance-related issues.

David is an Accredited Mediator, and as part of his practice he is actively involved in the mediation and arbitration of insurance disputes, including the representation of insurers in private and court-mandated proceedings. Whether through litigation, arbitration or mediation, David is committed to finding the most cost-effective resolution for his 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 "hot-button" topics as Catastrophic Impairment and the AMA Guides, Aggravated and Punitive Damages, Employer and Social Host Liability, Uninsured and Underinsured Liability, Forum Non-Conveniens and Transportation Law. David has also spoken at the request of the Advocate's Society on the Art of Cross-Examination and on insurance matters by the Ontario Bar Association, The Canadian Chamber of Commerce, Canadian Defence Lawyers, The Federation of Defence and Corporate Counsel, The Law Society of Upper Canada, Carleton University and Ottawa University.



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When combined with his extensive professionalism, education, presentations and association memberships, David's high-profile role as a speaker and writer assures his clients 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. He is a former part-time Assistant Crown Attorney and Ontario Human Rights Tribunal Prosecutor. He has appeared before all levels of the Trial and Appellant Courts in Ontario and at the Federal court of Appeal and before a variety of Boards, Tribunals and Arbitration Panels. Among other matters, in addition to insurance litigation, David 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)
- ◇ Defence Research Institute (U.S.) - International Law Committee
- ◇ Canadian Bar Association
- ◇ Ontario Bar Association (Board of Directors for the Insurance Section)
- ◇ Advocates Society
- ◇ Carleton County Law Association
- ◇ l'Association des juristes d'expression française de l'Ontario

## Selected Papers and Seminars Delivered

- ◇ Speaker, Subrogation and Spoilation: "Gotta know when to hold em or fold em" - ASAP Education and Training Resources Session, December 1, 2010, Ottawa, Ontario.
- ◇ Speaker and Panelist, "Sex Lies and Videotapes - Cyber Liability in a Digital World" - Federation of Defence and Corporate Counsel, Summer meeting - plenary session, July 29, 2010, Munich, Germany.
- ◇ Speaker, "A Look at the Top Ten Cases in Canada and Foretelling Things to Come", AGM for Canadian Defence Lawyers, June 3, 2010, Toronto, Canada.
- ◇ Speaker and Panelist, "The New Rules of Civil Procedure and the Proposed Changes to the Statutory Accident Benefits Schedule", Gore Mutual Insurance Company, 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", AGM of the Mutual Insurers Association of Canada, Cambridge, Ontario, March 10, 2010.
- ◇ Speaker and Panelist, "Protecting the Corporate Defendant", FDCC - Substantive Law Section meeting, Orlando, Florida, February 2010.



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## Selected Papers and Seminars Delivered (cont'd)

- ◇ Speaker, "Testifying as an expert in the Canadian legal system"- International Symposium on Life Care Planning, Chicago September 2009.
- ◇ Speaker and Moderator, " Forum Non- Conveniens around the world" – Substantive Law Section meetings of the Federation of Defence and Corporate Counsel, Virginia, August 2009.
- ◇ Author, "Insurance Law Primer"- The Task - The Trusted Advisor's Survival Kit - published by LexisNexis 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 - Ottawa - April 2009.
- ◇ Speaker and Panelist, "Successful Settlement of Transportation Cases in Canada and the United States" - Substantive Law Section Meetings of FDCC, Hawaii March 2009.
- ◇ Speaker, "Commercial General Liability Policies" - Ottawa Valley Adjusters Association, Mid-Winter Meeting, Ottawa, February 2009.
- ◇ Panelist, with Dr. Arthur Amies, Dr. Ken Reesor and J. Simmons at the Catastrophic Impairment Determination and the AMA Guides Conference October 2008, Sudbury, Ontario.
- ◇ 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", October 6, 2008, Toronto, ON Canada.
- ◇ Speaker, "Condominium Corporation Liability", Presentation on Practical and Legal Strategies for Condominium Corporations, Directors and Managers, September 28, 2008, Ottawa, ON, Canada.
- ◇ Speaker and Panelist, "Management, Economics and International Law Practice Section", Federation of Defence and Corporate Counsel Conference August 1, 2008, Banff, Alberta, Canada.
- ◇ Speaker, "How to Avoid Bad Faith Exposure"- Ontario Insurance Adjusters Association - Annual General Meeting - June 2008.
- ◇ Speaker and Panelist, "Emerging Issues in Damages" - Joint presentation hosted by the Law Society of Upper Canada, Ontario Bar Association, 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 Guidelines seminar on December 12th, 2007.



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## Selected Papers and Seminars Delivered (cont'd)

- ◇ Speaker, "Preparing the Expert for Trial - Chiropractic Association, Annual General Meeting, Ottawa, November 2007.
- ◇ Speaker, "Aggravated and Punitive Damages – Adjuster Liability", paper presented to the Ottawa Valley Adjusters Association in Ottawa 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", paper presented at the Out of Country Health Coverage Seminar sponsored by Optimum Re Insurance, Toronto, Ontario, Canada, May 9, 2006.
- ◇ Speaker, "Commercial and Social Host Liability", paper presented to the Insurance Broker Association in Ottawa, Ontario, Canada, March 2006.
- ◇ Speaker, "A Primer to Navigating the Congestion of the Uninsured, Underinsured and Unidentified Motorist Cover", "What You Don't Know Can Hurt You", paper presented to the Ontario Bar Association, Hot Topics in Motor Vehicle Insurance, Toronto, Ontario, Canada, November 2005.
- ◇ Speaker and Panelist, "Aggravated and Punitive Damages – The Insurance Defence Perspective", paper presented to Canadian Defence Lawyers Symposium on A Prime for Litigation Disability Claims, Toronto, Ontario Bar Association, February 4, 2005.
- ◇ Speaker, "PIPEDA: Social Host Liability", papers presented at the Canadian University Reciprocal Insurance Exchange Conference, Carleton University, Ottawa, Ontario, Canada, 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, "The Privacy Act", Ottawa Valley Adjusters Association, April 29, 2004.
- ◇ Speaker, "PIPEDA and the Insurance Industry", International Insurance Carrier in Ottawa, Ontario, Canada, February 27, 2004.
- ◇ Speaker and Panelist, "Bill 198: Challenges and Pitfalls – The Insurance Defence Perspective", Carleton County Law Association – Civil Litigation Symposium, November 29th, 2003.



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## Selected Papers and Seminars Delivered (cont'd)

- ◇ Speaker, "Risk Management and Ontario Universities", Ontario University Risk Management Workshop, Ottawa, November 2003.
- ◇ Presenter, "Commercial and Social Host Liability", Transportation Association of Canada, November 18th, 2003.
- ◇ Presenter, "Stock Broker Liability", to National Bank Financial, August 6, 2003 and October 10, 2003.
- ◇ Speaker, "Alcohol Liability in Ontario" - Insight Seminars, Toronto, November 2002.
- ◇ Speaker, "Social Host and Ontario Motor Vehicle Law", 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.
- ◇ Co-Chair, "Litigation Disability Insurance Claims", Canadian Insurance Institute, Toronto, April 17, 2002.

For a further listing of speaking engagements and papers presented by David Bertschi, please contact: [dbertschi@boslaw.ca](mailto:dbertschi@boslaw.ca).

## Representative Work

For a listing of the numerous cases in which Mr. Bertschi has successfully acted for clients, please contact [dbertschi@boslaw.ca](mailto:dbertschi@boslaw.ca)