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## Gavin Tighe

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### Expertise

Litigation and Dispute Resolution

Financial Services

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### Education

- University of Saskatchewan, LL.B., 1991
  - Queen's University, B.A., 1988
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### Bar Admission

- Ontario Bar, 1993
- New Brunswick  
(permission to practice)
- Prince Edward Island  
(permission to practice)

### Executive Summary

Gavin Tighe is a senior partner with Gardiner Roberts LLP and a member of the firm's Executive Committee. Mr. Tighe has been certified by the Law Society of Ontario as a Specialist in Civil Litigation since 2003 and has appeared as lead counsel at all levels of Canadian Courts including the Supreme Court of Canada. He has significant experience successfully representing clients in professional discipline matters, and securities tribunals in both Canada and the United States. Mr. Tighe also acts as counsel to clients in arbitrations, mediations and other forms of Alternative Dispute Resolution. A sampling of some of Mr. Tighe's reported court decisions is listed below.

Mr. Tighe's diverse practice focuses on professional liability. Mr. Tighe has also represented clients and successfully argued some of the leading Canadian cases in such diverse areas as corporate restructuring, municipal conflict of interest, adverse possession of real property, solicitor's negligence, financial advisor liability, auditor and accountant liability, title insurance, defamation, and election law in addition to numerous other areas of law.

Mr. Tighe has published numerous legal articles, been an instructor at the Law Society of Upper Canada and has been cited as an authority on Civil Practice in Ontario. He has repeatedly been selected by his peers for inclusion in The Best Lawyers in Canada and ranked in Lexpert. Mr. Tighe is also commonly an invited speaker at professional conferences including conferences sponsored by the Law Society of Ontario, Canadian and American Bar Associations.

### Representative Work

- Larizza v. Royal Bank of Canada, 2018 ONCA 632
- Lang Michener LLP v. King, 2018 ONCA 471
- Nodel v. Stewart Title Guaranty Company, 2018 ONCA 341
- CMT et al. v. Gov't of PEI et al., 2018 PESC 9
- MacDonald v. Chicago Title Insurance Company of Canada, 2015 ONCA 842
- Opitz v. Wrzesnewskij, 2012 SCC 55, [2012] 3 S.C.R. 76
- Foulidis v. Ford, 2012 ONSC 7189 (CanLII); 2012 CarswellOnt 16516
- Sutton v. Balinsky et al., 2015 ONSC 3081 (CanLII)
- Osterbauer v. Ash Temple Ltd., 2003 CanLII 6614 (ON CA) [2003] O.J. No. 948; 63 O.R. (3d) 697; [2003] CLLC para. 210–047; 121 A.C.W.S. (3d) 277
- Newman v. TD Securities Inc., 2007 CanLII 10791 (ON SC) [2007] O.J. No. 139; 26 B.L.R. (4th) 270; 154 A.C.W.S. (3d) 726; 2007 CarswellOnt 194
- Geler (Bankruptcy), Re, 2005 CanLII 18283 (ON SC) [2005] O.J. No. 2094; 12 C.B.R. (5th) 15; 139 A.C.W.S. (3d) 622; 2005 CarswellOnt 2094
- T.D. Waterhouse Investor Services (Canada) Inc. v. Srivastava, 2005 CanLII 35791 (ON SC) [2005] O.J. No. 4244; [2005] O.T.C. 871; 143 A.C.W.S. (3d) 81
- Khan v. TD Waterhouse Investment Advice, 2006 CanLII 9310 (ON SC) [2006] O.J. No. 1177;

- [2006] O.T.C. 128; 146 A.C.W.S. (3d) 957
- Polish Alliance of Canada v. Lovett, Cunningham & Eagles, 2011 ONCA 462 (CanLII) [2011] O.J. No. 2788; 2011 ONCA 462
  - Gibbins v. TD Waterhouse Canada Inc., 2007 CanLII 10789 (ON SC) [2007] O.J. No. 1258; 156 A.C.W.S. (3d) 558
  - Chuang v. Manning, 2010 ONSC 6296 (CanLII) [2010] O.J. No. 4920; 2010 ONSC 6296; 2008 CanLII 14175 (ON SC) [2008] O.J. No. 1258; 166 A.C.W.S. (3d) 71
  - Srivastava v. T.D. Waterhouse, 2003 CanLII 16441 (ON SC) [2003] O.J. No. 3279; 124 A.C.W.S. (3d) 396
  - Newman v. T.D. Securities Inc., 2007 CanLII 463 (ON SC) [2007] O.J. No. 1260; 31 B.L.R. (4th) 215; 156 A.C.W.S. (3d) 559; 2007 CarswellOnt 1944
  - Cormack Animal Clinic Ltd. v. Potter, 2009 CanLII 713 (ON SC) [2009] O.J. No. 141; 306 D.L.R. (4th) 548; 66 C.P.C. (6th) 21; 2009 CarswellOnt 142
  - Bluestone v. Silverman, 2005 CanLII 27143 (ON SC) [2005] O.J. No. 3219; [2005] O.T.C. 665; 141 A.C.W.S. (3d) 310
  - Dagarsho Holdings Ltd. v. Bluestone, 2005 CanLII 39321 (ON CA) [2005] O.J. No. 4526; 37 R.P.R. (4th) 53; 143 A.C.W.S. (3d) 52; 2005 CarswellOnt 5193; 2004 CanLII 11271 (ON SC) [2004] O.J. No. 2654; [2004] O.T.C. 525; 23 R.P.R. (4th) 80; 132 A.C.W.S. (3d) 380
  - Stewart Title Guarantee Company v. Zeppieri, 2009 CanLII 2329 (ON SC) [2009] O.J. No. 322; 94 O.R. (3d) 196; 307 D.L.R. (4th) 539; 70 C.C.L.I. (4th) 247; [2009] I.L.R. I-4784; 2009 CanLII 2329; 2009 CarswellOnt 365
  - Charlebois v. Stewart Title Guaranty, 2011 ONSC 6824 (CanLII) [2011] O.J. No. 5392; 2011 ONSC 6824; 108 O.R. (3d) 371; 91 C.C.L.T. (3d) 336; [2011] I.L.R. I-5220; 211 A.C.W.S. (3d) 220; 2011 CarswellOnt 13509
  - Freedman v. Toronto (City), 2009 CanLII 82620 (ON SC) [2009] O.J. No. 4790; 81 C.C.L.I. (4th) 85; [2010] I.L.R. I-4924; 2009 CarswellOnt 6938
  - Jafine v. Mortson, 1999 CanLII 14775 (ON SC) [1999] O.J. No. 971; 43 O.R. (3d) 81; 93 O.T.C. 91; 50 M.P.L.R. (2d) 218; 87 A.C.W.S. (3d) 381
  - Nadvornianski v. Stewart Title Guaranty Company, 2006 CanLII 21787 (ON SC) [2006] O.J. No. 2611; 82 O.R. (3d) 149; 39 C.C.L.I. (4th) 275; 47 R.P.R. (4th) 155; 149 A.C.W.S. (3d) 690; 2006 CarswellOnt 3934
  - TD Waterhouse Canada Inc. (TD Waterhouse Discount Brokerage) v. Chee, 2009 CanLII 9365 (ON SC) [2009] O.J. No. 786
  - Khosla v. Korea Exchange Bank of Canada, 2008 CanLII 56011 (ON SC) [2008] O.J. No. 4344; 172 A.C.W.S. (3d) 249
  - Millstone Consulting Services Inc. v. Cleary, 2009 ONCA 755 (CanLII) [2009] O.J. No. 4510; 2009 ONCA 755; 85 R.P.R. (4th) 50; 2009 CarswellOnt 6632
  - TD Waterhouse Canada Inc. (TD Waterhouse Private Investment Advice) v. Little, 2010 ONCA

- 145 (CanLII) [2010] O.J. No. 724; 2010 ONCA 145; 79 C.C.E.L. (3d) 216; 2010 CarswellOnt 1033; 2009 CanLII 43663 [2009] O.J. No. 3465; 76 C.C.E.L. (3d) 243; 2009 CanLII 43663; 179 A.C.W.S. (3d) 840; 2009 CarswellOnt 4883; 009 CanLII 60088 [2009] O.J. No. 4608
- Jones v. Ontario, 2003 CanLII 21196 (ON CA) [2003] O.J. No. 3258; 66 O.R. (3d) 674; 66 O.R. (3d) 683; 175 O.A.C. 263; 45 C.B.R. (4th) 263; [2004] 1 C.T.C. 65; 2003 D.T.C. 5663; 125 A.C.W.S. (3d) 17; 2003 CarswellOnt 3184
  - Playdium Entertainment Corp., Re, 2001 CanLII 28281 (ON SC) [2001] O.J. No. 4252; [2001] O.T.C. 828; 18 B.L.R. (3d) 298; 31 C.B.R. (4th) 302; 109 A.C.W.S. (3d) 207; 2001 CarswellOnt 3893
  - Paciorka v. TD Waterhouse, 2008 CanLII 6646 (ON SC) [2008] O.J. No. 676; 164 A.C.W.S. (3d) 405; 2007 CanLII 28749 (ON SC)
  - Khan v. TD Waterhouse Investment Advice, 2006 CanLII 3467 (ON SC)[2006] O.J. No. 1177; [2006] O.T.C. 128; 146 A.C.W.S. (3d) 957
  - BMO Nesbitt Burns Inc. v. TD Waterhouse Investor Services, 2006 CanLII 17338 (ON SC) [2006] O.J. No. 2074; 148 A.C.W.S. (3d) 627
  - Matutschovsky v. Singer, 2009 ONCA 406 (CanLII) [2009] O.J. No. 1946; 2009 ONCA 406
  - Admassu v. Pantel, 2009 CanLII 35726 (ON SC) [2009] O.J. No. 2916
  - Wrzesnewskij v. Attorney General (Canada), 2012 ONSC 3718 (CanLII) [2012] O.J. No. 2308; 2012 ONSC 2873; 2012 SCC 55
  - Battery Plus Inc., Re, 2001 CanLII 28272 (ON SC [2001] O.J. No. 4510; 29 C.B.R. (4th) 191; 109 A.C.W.S. (3d) 686
  - TD Waterhouse Canada Inc. v. Goodman, 2005 CanLII 1499 (ON SC) [2005] O.J. No. 250; 136 A.C.W.S. (3d) 821
  - Reviczky v. Meleknia, 2007 CanLII 56494 (ON SC) [2007] O.J. No. 4992; 88 O.R. (3d) 699; 287 D.L.R. (4th) 193; 66 R.P.R. (4th) 254; 162 A.C.W.S. (3d) 1048; 2007 CarswellOnt 8258
  - 1013952 Ontario Inc. (Silverado Restaurant and Nightclub) v. Sakinofsky, 2010 ONSC 411 (CanLII) [2010] O.J. No. 168; 2010 ONSC 411; 2009 CanLII 60783 (ON SC) [2009] O.J. No. 4692.

### **Articles and Presentations**

- Dismissal of abusive proceeding upheld; Home buyer who got more land than he bargained for not entitled to damages for lost secondary transactions - April 2, 2019
- Time period expired: Claim for contribution and indemnity dismissed – January 30, 2019
- Is Partial Summary Judgment Dead – December 7, 2018
- The End of the Charter? – November 19, 2018
- Is Partial Summary Judgment Dead – November 5, 2018
- Defamation and Social Media: An Update – February 8, 2018
- Bank not responsible for fraudulent instructions delivered via customer's email account – May 12, 2017



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- Mortgage proceeds paid to fraudster's lawyer, in trust, covered under title insurance policy – February 23, 2017
- Unpermitted Removal of Support Walls Covered by Title Insurance Policy: Title Insurer Obligated to Pay Future Repair Costs to Remedy Dangerous Condition – December 7, 2015
- Conflict of Interest in the Era of Multi-national Law Firms – November 12, 2015
- The Throwback Heard Around the (Baseball) World A Legal Perspective – Wednesday, October 21, 2015
- Court Refuses to Enjoin Use of Controversial Ride Service Uber Drives On in Toronto – August 21, 2015
- Family Law Act Remedy Trumps Professional Liability Claim – August 18, 2015
- Municipal Election Victories – May 28, 2015
- Controversial Practice of Carding Hits Court – May 13, 2015
- Collection of Unpaid Legal Fees – May 13, 2015
- Record Retention eDiscovery Spoliation – April 1, 2015
- Speaking to the Media – October 28, 2014
- Injunctions, Irreparable Harm and Breach of Non-Solicitation and Non-Competition Agreements » dans Barreau du Haut-Canada, The Six-Minute Employment Lawyer, Law Society of Upper Canada – June 2013
- Provisional Execution: An Interpretation of Section 195 of the Bankruptcy and Insolvency Act – Canadian Bankruptcy Reports – 2002
- Rule 49 – Offers to Settle, The Advocates Quarterly – 2000

### **Recognition**

- Appointed by Order in Council as Chair of the Public Accountants Council for the Province of Ontario
- Lexpert Ranked for Professional Liability
- Best Lawyers in Canada – 2013-2020

### **Professional Involvement**

- Law Society of Upper Canada
- Ontario Bar Association
- The Advocates' Society
- Osgoode Society
- Toronto Lawyers Association
- Honorary Overseas Member – COMBAR  
(The specialist association of the English and Welsh Commercial Bar)