

Gavin H. Finlayson

Partner

Toronto

OFFICE

416.595.8619

gfinlayson@millerthomson.com



Industries & Expertise

INDUSTRIES

Banking and Financial Services | Automotive |
Cannabis | Real Estate | Structured Finance and
Securitization

EXPERTISE

Class Actions | Restructuring & Insolvency |
Commercial Litigation

Biography

BAR ADMISSION

Ontario, 2001

EDUCATION

- LL.B., University of British Columbia, 1999
- B.A. (with Honours), Queen's University, 1993

Gavin Finlayson is a practical and results-oriented litigator who focuses on high-stakes complex commercial litigation and restructuring matters that often proceed in “real time” or on an urgent basis. Gavin has played a key role in many notable Canadian restructurings, class actions and other complex litigation and has particular experience in cross-border matters between Canada and the United States. Gavin has been counsel in numerous reported decisions and regularly writes and presents on legal developments.

As an INSOL Fellow, Gavin acts as a course instructor and a member of the editorial committee for the monthly INSOL International News Update Committee. Gavin regularly writes and presents on novel and notable legal developments.

Gavin is a Fellow of the International Association of Restructuring, Insolvency and Bankruptcy Professionals (INSOL), a world-wide federation of accountants and lawyers who specialize in turnaround and insolvency. He has been recognized in various industry directories for his experience in insolvency and restructuring law including The Best Lawyers in Canada – Insolvency and Financial Restructuring Law, 2024-2025, The Canadian Legal Lexpert Directory – Insolvency & Financial Restructuring, 2024, and Euromoney LMG Rising Stars; Restructuring and Insolvency.

Industry involvement

Recognition

- *The Best Lawyers in Canada* – Insolvency and Financial Restructuring Law, 2024-2025
- *The Canadian Legal Lexpert Directory* – Insolvency & Financial Restructuring, 2024
- Euromoney LMG Rising Stars; Restructuring and Insolvency

Thought leadership

Presentations

- Co-presenter, “Insolvencies of Cannabis Producers and Their Cross-Border Implications”, American Bankruptcy Spring Meeting, April 2021
- Presenter, “What’s Involved in a Corporate Restructuring in the Cannabis Space?”, May 28, 2020

Publications

- Co-author, “The scope of non-debtor third party releases between the U.S. and Canada: A distinction with a difference”, Financial Services & Restructuring Communiqué, February 3, 2022
- Co-author, “Levelling The Playing Field: The Rise Of Litigation Funding In Canada”, Mondaq, November 1, 2021
- The “Reverse Vesting Order”: A New Variation on an Old Tool, INSOL International Monthly News Update, January, 2021
- Co-author, “Corporate Restructuring in the Cannabis Space”, Cannabis Prospect Magazine, November 2, 2020
- “Navigating Uncertainty: Restructuring and Insolvency in the Cannabis Sector”, January 13, 2020
- “The Balance of Convenience in Judicial Review Applications-A Lesson in the Cannabis Space”, November 7, 2019

- “Ontario Court of Appeal Affirms Limits on Auditor Liability”, September 7, 2018
- “Protecting Your Intellectual Property Interests and Finding Opportunities in Insolvency”, April 9, 2018
- “Insuring Autonomous Vehicles in the Fabulous New”, December 7, 2017
- “B.C. Court of Appeal Finds Google Subject to B.C. Jurisdiction” July 7, 2015
- “The Northern Rule of Law” June 2, 2015
- “Ontario Superior Court States Clear Rule on Pre-Certification Production of Medical Records in Class Actions”, May 19, 2015
- “Certification Denied: Product Liability Cases are not “Quintessential” Class Actions”, April 23, 2015
- “Ontario Court Reaffirms Extensive Franchisee Protection in Class Actions”, April 28, 2011

Notable Matters

- Representative Counsel for unitholders in the Bridging Finance Funds with misrepresentation claims in connection with unitholder priority issues.
- Representation of the former auditors of Buckingham Securities in the Superior Court of Justice and in the Ontario Court of Appeal in the successful defence of a class action, and in securing the dismissal of a negligence claim against the defendant accounting firm.
- Nortel Networks, representing bondholders with claims in excess of U.S. \$4 billion in proceedings pursuant to the Companies Creditors Arrangement Act (the CCAA), including the first cross-border trial conducted between the Ontario Superior Court of Justice and the United States Bankruptcy Court for the District of Delaware.
- Smurfit-Stone, representing the Official Committee of Unsecured Creditors in litigation proceedings involving a \$200 million intercompany claim.
- Indalex, representing noteholders in concurrent proceedings under the CCAA and Chapter 11.
- Bondholders in litigation against Crystallex International involving international investor protection treaties and Venezuelan law.
- Catalyst Capital Group Inc., in a bid to obtain a controlling stake in Canwest Global Communications Corporation in CCAA proceedings.
- Acting as trial counsel for the licensor of key intellectual proprietary assets in connection with the CCAA restructuring of a biotech company.
- Bard Canada, in multiple class proceedings and individual actions involving transvaginal urethral mesh products, IVF filters, and hernia mesh.
- Retrofoam, counsel to several parties in a class proceeding by homeowners in Ontario in relation to the installation of Retrofoam into residential homes.
- WIND Mobile, in the successful defense of a class action alleging damages from exposure to RF radiation.
- The Receiver Plaintiff Reinsured, in the re-trial of a complex, cross-border reinsurance matter.
- Applicants and defendants in a number of shareholder disputes, oppression remedy and fraud matters.

- A market leading cannabis company in its successful acquisition of a cannabis cultivation facility in disputed proposal proceedings under the Bankruptcy and Insolvency Act.
- Representation of a selected applicant in the successful intervention on behalf of selected applicants resulting in the dismissal of a judicial review of the AGCO's decision to disqualify certain other applicants in the Second Ontario Cannabis Retail Licensing Lottery.
- Representation of a number of cannabis companies, including retail license holders and LPs, as well as companies involved in research into therapeutic hallucinogens, in relation to regulatory and litigation matters.

Memberships & affiliations

- The Advocates' Society
- Fellow, International Association of Restructuring, Insolvency and Bankruptcy Professionals (INSOL)