



## John Philpott

Partner | Toronto

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## Biography

John Philpott is a commercial and civil litigator recognized by his clients for his critical insight, frank advice, and passionate advocacy. His focus is on obtaining the best results as expeditiously as possible. John has experience at all levels of Court, including the Supreme Court of Canada, Ontario Court of Appeal, Divisional Court, Superior Court of Justice, Federal Court, Commercial list matters, administrative tribunals, and confidential commercial arbitrations. John has represented individuals and businesses in a wide range of civil and commercial litigation disputes, including litigating shareholder rights, contract disputes, and fraud matters.

**Shareholders' rights:** acting for shareholders in disputes concerning the ownership and operation of corporations, including corporate oppression claims.

**Contract disputes:** acting for individuals and entities in a wide range of matters, including exclusive distribution agreements, real estate agreements, finder's fee agreements, letters of intent, private placements and many others.

**Extraordinary remedies/fraud matters:** seeking remedies to freeze funds or property which is at risk of being dissipated in cases of fraud or corporate oppression.

John has also acted on matters concerning copyright, defamation, malicious prosecution and a host of other areas.

John has spoken and written on a variety of legal topics in Canada and the United States, including copyright infringement (California Copyright Conference), extraordinary remedies (Law Clerk Conference of Ontario), and solicitor client privilege (Lawyer's Weekly). John has also made televised appearances on The National and CityNews.

Prior to joining Miller Thomson, John articulated at national firm and also worked for many years at a litigation boutique firm where he gained significant courtroom experience.

## Notable matters

- *Gullins v. Maxim*, 2018 ONSC 3163: Successfully conducted trial for corporate defendant and directors against terminated partner on issues of shareholder oppression and contractual interpretation
- *Deltro Electric Ltd. v. Director, Electrical Safety Code*, 2018 ONSC 2286: Successfully conducted two week administrative trial on whether defendant regulator adhered to statutory requirements when it set regulatory fees and the scope of its regulatory mandate; Successfully responded to Divisional Court appeal
- *Cache Metals RRSP Inc. et al v. Salama et al*, 2015 ONSC 4566, upheld on appeal in 2015 ONSC 7856: Obtained urgent Mareva injunction, Anton Pillar order, and certificate of pending litigation against high level employee alleged to have stolen \$1M of company property; defended motion to strike and/or vary order; subsequently obtained judgment
- *Edgetch HVAC Services Ltd. v Ubhi*, 2016 ONSC 7564, upheld on appeal in 2017 ONSC 317: Obtained injunction restraining departing director and employees from competing and soliciting customers and other employees; defended Divisional Court motion seeking stay of order

- *Avan v. Benarroch*, 2017 ONSC 4729: Obtained certificates of pending litigation against three properties on basis of undocumented loan agreement; defeated cross-motion for security for costs against client who is a Florida resident on basis of client's interest in an Ontario default judgment; subsequently defeated motion seeking consolidation with a related family law matter (*Avan v. Benarroch*, 2019 ONSC 1111)
- *Voltage Picture LLC v. John Doe*, 2014 FC 161: Successful in Anton Pillar motion against third party internet service provider in copyright claim brought on behalf of movie production company
- *Advanced Explorations Inc. v. Storm Capital Corp.*, 2014 ONSC 3918: Obtained judgment via commercial arbitration in "finders fee" case dealing with issues contractual interpretation, share valuation, and securities law registration requirements
- *Bossio v. Nutok Corporation*, 2015 ONSC 1305: Obtained judgment as sole counsel in matter involving multiple promissory notes, mortgages, and other agreements; conducted power of sale over defendant's property
- *Pirani v. Esmail*, 2014 ONCA 145: Successfully responded to appeal of trial judgment on issues of breach of trust and breach of fiduciary regarding rental property held in trust for client
- *Pirani v. Esmail*, 2013 ONSC 4199: Defeated motion seeking to enforce undertaking as to damages stemming from Mareva injunction
- *Nuvius Bankcard Services et al. v. Dowty*, 2012 ONSC 4835: Successfully opposed motion seeking determination that defamatory demand letter was protected by absolute privilege; subsequently positively resolved this defamation dispute
- *Davydiuk v. Internet Archive Canada*, 2014 FC 944: Acted for former film worker in early internet "right to be forgotten" copyright case against an internet archive company; successful on motion determining that action had real and substantial connection to Ontario notwithstanding that the defendant's archive operations were not in Ontario; successful on appeal of the motion and on defending a subsequent summary judgment motion (see *Davydiuk v. Internet Archive Canada* 2016 FC 1313)
- *Clark v Sports Cafe Champions a.k.a. 1682211 Ontario Inc.*, 2016 ONSC 7303: Successful in Rule 2.01 motion to have matter dismissed as frivolous, vexatious and an abuse of process; order upheld before Court of Appeal
- *Dominion of Canada v. Ali*, 2016 ONSC 4604: Acted for insured on application seeking to enforce settlement; successfully argued that Court did not have jurisdiction to hear application and obtained order for full indemnity costs; successful in having settlement declared unenforceable by FSCO Arbitrator due to non-adherence by insurer to strict statutory requirements
- Achieved positive resolution for developer in expropriation/nuisance claim against the Ministry of Transportation where MTO refused to approve project or expropriate land

## Community involvement

- Thunder Beach Association: long serving member of the Board of Directors for the Thunder Beach Association, an organization dedicated to community stewardship in Georgian Bay
- Former Board Member of the Federation of Tiny Township Shoreline Associations, an organization dedicated primarily towards environmental and municipal issues in Georgian Bay

## Professional memberships

- The Advocates' Society
- Canadian Bar Association
- Ontario Bar Association
- Canadian International Council

## Bar admissions & education

- Ontario Bar, 2011
- Juris Doctorate, University of Toronto, Faculty of Law, 2010
- MSc (Global Politics), London School of Economics, 2007
- B.A. (Honours), Queen's University, 2004