



## James Zibarras

Partner | Toronto

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### Biography

James Zibarras is a sought after trial and appellate lawyer. He has practiced across Canada and in the U.S., and has extensive experience representing clients on a wide range of civil litigation matters. James combines his broad litigation experience and detailed knowledge of the Court process to devise clear, efficient and cost-effective litigation strategies for his clients. He is regularly invited to speak at law conferences on legal strategies and remedies. For the past 14 years, James has taught trial and advocacy skills to hundreds of law students at the University of Toronto Faculty of Law. In 2012, James was appointed as a Deputy Judge of the Ontario Superior Court, where he presides on a part time basis.

James started his legal career in 1997 at one of Canada's largest National firms. In 2000, he moved to Palo Alto, California, where he practiced as a civil litigator with a U.S. headquartered international law firm. In 2004, he rejoined the firm he began his legal career with, eventually becoming a partner there. In 2008, he became one of the three founding partners of a litigation boutique, where he headed up the Civil Litigation department for 10 years.

James has acted on a broad range of cases including breach of contract, oppression remedy, sale of goods, employment, construction, insolvency and shareholder disputes.

James also has 20 years of experience pursuing remedies on behalf of victims of fraud. During this time, he developed extensive expertise in handling urgent, extra-ordinary civil remedies, including *Anton Piller* orders (civil search and seizure), *Norwich* orders (third party document disclosure orders), *Mareva* injunctions (account and asset freezing orders) and Contempt orders. These extra-ordinary remedies are particularly well suited to securing effective, quick and often decisive results in anti-fraud, anti-counterfeiting and anti-piracy cases, as well as in insolvency, breach of fiduciary duty, breach of non-compete agreements and contractual disputes.

James has obtained some of the leading court decisions on extra-ordinary remedies and is regularly invited to speak at national and international anti-fraud conferences.

### RELATED SERVICES

Commercial Litigation

James has executed dozens of *Anton Piller* orders and has extensive experience acting as court appointed Independent Supervising Solicitors (“ISS”) for the execution of *Anton Piller* orders.

James is also regularly retained to pursue or defend appeals. He is an experienced appellate lawyer who has argued dozens of cases before the Court of Appeal and is relied upon by clients to navigate the appeal process.

James regularly does pro-bono work, especially for victims of fraud, cyber attacks and cyber-bullying.

## Professional achievements & leadership

- *The Canadian Legal Lexpert Directory* – Litigation - Corporate Commercial, 2023-2024
- Benchmark Canada, Litigation Star, 2024
- Deputy Judge of the Ontario Superior Court (presides on a part-time basis), since 2012

## Notable matters

- In 2014, James successfully argued *Voltage Pictures v. John Doe* (2014 FC 161), one of the leading Federal Court cases on identifying copyright infringers by using their internet protocol (IP) addresses.
- In 2014 and 2017, James was successful in using the civil contempt remedy to send two fraudsters to jail for 3 months and 6 months respectively (see *Valani v. Garrick and Scheckel v. Walker*) for failing to comply with Court orders requiring them to account for millions of dollars they fraudulently stole from their respective victims, one being Canadian and one being from the United States.
- In 2017, in *2092280 Ontario Inc. v. Srimoorthy Pathamanathan et al.*, James successfully argued the first ever ex parte appeal in Ontario, which remedy James created so as to preserve the element of surprise when bringing motions for Mareva injunctions and other extra-ordinary civil remedies.
- *2092280 Ontario Inc. v. Srimoorthy Pathamanathan et al.* - Successfully obtained leave to argue the first ex parte appeal in Ontario. The appeal related to important aspects of Mareva Injunction relief.
- *Voltage Pictures LLC v. John Doe* - Obtained the first order by a Canadian Federal Court requiring an ISP to disclose the identity of 2000 of its customers who downloaded Voltage's copyrighted films.
- *Storm Capital Corporation v. Advanced Explorations Inc.* - Represented the plaintiff in enforcing a multi-million dollar finder's fee agreement against a large mining company.
- *Glass et al. v. Pronorth Transportation Inc.* - Represented founding shareholder in multi-million dollar shareholder dispute and shareholder oppression action.
- *DIRECTV, Inc., Bell ExpressVu and Echostar v. John Doe* - Acted on behalf of DIRECTV, Inc., Bell ExpressVu, and EchoStar Satellite Corporation in numerous enforcement proceedings involving manufacturers, distributors, and customers of illegal piracy hardware/software for satellite signal theft. Obtained and executed numerous Anton Piller orders across Canada, resulting in the seizure of hundreds of thousands of illegal products and business records, and the shutdown of numerous websites.
- *Canadian National Railway v. Mohawks of the Bay of Quinte First Nations* - Obtained injunctions on behalf of CNR to compel members of the Bay of Quinte Mohawks to remove blockades obstructing a

vital rail corridor in Ontario. The blockades were in sympathy for First Nation land claim protests in Caledonia.

- *Bank of Nova Scotia v. Richard Vero* - Obtained injunctions on behalf of BNS enjoining communications with the BNS Board of Directors and the distribution of written materials referencing BNS or its employees.
- *Valani v. Garrick* - Obtained a three month term of imprisonment for civil contempt of Court against a Judgment Debtor who refused to make full and complete financial disclosure.
- *Scheckel v. Walker* - Obtained a six month term of imprisonment for civil contempt of Court against a fraud defendant who refused to make full and complete financial disclosure.
- *Ameriquest Mortgage Company v. John Doe* - Acted as Canadian counsel on behalf of Ameriquest in proceedings arising out of a fraudulent telemarketing scheme.
- *Indcondo v. Cave Hill Properties Ltd. et al.* - Pursued a \$10 million breach of contract and fraudulent conveyance claim stemming from a share-purchase transaction and failure to pay outstanding promissory notes.
- *Agway v. Venture Steel Inc.* - Defended a multi-million dollar breach of contract dispute.
- *BMW v. North York Chrysler et al.* - Pursued multi-million dollar fraud and breach of fiduciary duty claims on behalf of BMW.
- *West Van Inc. v. MNK Leasing et al.* - Pursued multi-million dollar claims for fraud, interference with contractual relations and breach of fiduciary duties.
- *Geoprospects et al. v. Falconbridge Limited* - Successfully defended a US\$50 million claim for alleged misuse of confidential mining information relating to vast areas in the Far East of Russia.
- *Oppenheimer & Co. Inc. v. Blue-Dot Consulting Inc.* - Involved in multi-million dollar breach of contract lawsuit on behalf of a brokerage house in New York that required urgent injunctive relief and involved complex commercial litigation issues.
- *Stewart Title Guaranty Company v. Marek* - Acted on behalf of Stewart Title in two related fraud and misappropriation of trust funds actions.
- *Applied Materials, Inc. v. BigMouth* - Successfully mediated a breach of contract claim on behalf of Applied Materials. The action related to Applied's \$5 million "Information for Everybody" ad campaign.

## Thought leadership

- Instructor at the University of Toronto Law School, Trial Advocacy program, since 2004
- Regular speaker for The Advocates' Society including on the following topics:
  - A Trial from A to Z
  - Effective Discoveries
  - Evidence for Litigators
  - Examination in Chief
  - Powerful Cross-Examination
  - React Like a Pro
  - Ready, Set, Litigate
  - Trials Without Tribulations
  - Winning Through Cross-Examination
- Regular speaker at various Fraud Conferences, including on the following topics:
  - *Anton Piller* orders and other extra-ordinary Civil Remedies
  - Contempt orders

- Cyber Fraud
- Fighting Fraud in the Public Sector
- Security for Costs Motions
- The Importance of Civil Remedies in Fraud Matters

## **Corporate directorships**

- Director, Association of Certified Fraud Investigators

## **Professional memberships**

- Association of Certified Fraud Investigators
- Hellenic Canadian Lawyers Association
- The Advocates' Society
- Ontario Bar Association
- British Columbia Bar Association
- Deputy Judges Association
- American Bar Association
- California State Bar Association

## **Bar admissions & education**

- Ontario, 2004
- California, 2000
- British Columbia, 1998
- Bachelor of Laws, University of Victoria, British Columbia, 2003
- Bachelor of Commerce, University of Witwatersrand, South Africa, 1997