

Rafal Szymanski

Partner

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CALLED TO THE BAR OF ONTARIO,
2010

EDUCATION

- LL.B., University of Manitoba, 2009
- B.A., (Honours), Queen's University, 2006

PRACTICE AREAS

- Insurance Litigation
- Police Liability
- Commercial Litigation

Rafal is a pragmatic advocate. He appreciates that the best, most efficient, resolution to litigation often occurs before a case comes before a judge. When a negotiated settlement cannot be reached, however, Rafal's extensive litigation experience allows him to skillfully navigate his cases through the courtroom. Judges have commended Rafal for the "most professional and efficient manner" in which he presents cases.

Rafal has a diverse litigation practice focused on professional negligence. He spends equal time defending police civil liability claims and lawsuits or regulatory proceedings against members of the financial services industry, including financial advisors, insurance agents and brokers, mortgage brokers, and appraisers. Rafal has also been asked to defend lawsuits against other professionals, such as paralegals, engineers, home inspectors, and physiotherapists.

Described as confident, creative, resourceful, and "grace under pressure," clients often look to Rafal for a fast and cost-effective disposition of claims, but appreciate his courtroom experience. His police clients also appreciate his discretion when dealing with sensitive issues under the microscope of public scrutiny.

EXPERIENCE

- *Regional Municipality of Peel Police Services Board v. John*, 2020 ONSC 1058 Obtained an order declaring a serial litigant to be vexatious and prohibiting him from commencing any action in Ontario without prior court approval. The Respondent was also prohibited from continuing any existing action without first obtaining court approval. View decision [here](#).
- *James v. Peel Regional Police Services Board*, 2019 ONSC 3323 Successfully opposed a motion for summary judgment in a racial profiling claim against police. The Plaintiff alleged he was unlawfully arrested for breaching his recognizance of bail on the basis of inaccurate CPIC information. He also claims he was unlawfully pulled over two days later. His request for judgment was denied. View decision [here](#).
- *Khan v. Moore*, 2019 ONSC 2801 Successful on a cross-motion for summary judgment. The plaintiff alleged various Charter violations in relation to the operation of a government program. The claim was dismissed on the basis of a missed limitation period and failure to provide notice under the Proceedings Against the Crown Act. View decision [here](#).
- *Correct Building Corporation v. Lehman*, 2018 ONCA 462 Successfully obtained summary judgment on appeal in an action against an appraiser. The plaintiff alleged that the appraiser overvalued a property and caused a municipality to back out of a development agreement. The Court of Appeal found in favour of the appraiser on the merits and determined the action was out of time in any event. View decision [here](#).
- *Powell v. Graves*, 2017 ONSC 2747 Brought a successful motion for summary judgment to dismiss an action against a real estate appraiser. The Plaintiffs argued that the appraiser deprived them the opportunity to obtain a mortgage for the purchase of a residential property. The motion judge found that the appraiser did not cause the Plaintiffs' purchase to fail.
- *Miracle v. Maracle III*, 2017 ONCA 195 Successfully defended an appeal from a motion decision refusing to add our client as a defendant to an action because the plaintiff failed to obtain leave to bring the motion. View decision [here](#).
- *John v. OIPRD and Peel Regional Police*, 2017 ONSC 42 (Div. Ct.) Successfully appealed a trial decision from the Small Claims Court where a police officer was found to have racially profiled the Plaintiff during the course of a traffic stop. The finding of racial profiling was reversed and the judgment set aside. View decision [here](#).
- *Nissen v. Durham Regional Police Services Board*, 2017 ONCA 10 Appellate counsel for a police force on the first Canadian case to consider the requirements for a damages award for breach of a promise of confidentiality made to a citizen reporting criminal wrongdoing. View decision [here](#).
- *Unegbu v. WFG Securities of Canada Inc.*, 2016 ONCA 501 Successfully opposed an appeal from a summary judgment motion where the Plaintiff's action against a financial advisor was dismissed for a missed limitation period. View decision

[here](#).

- *John v. Peel Regional Police*, 2016 ONSC 2016 Successfully argued four separate motions to strike four Statements of Claim issued by the same Plaintiff. Each motion was heard one after the other. Here, the court dismissed claims against police of negligent investigation, conspiracy, bad faith, breach of trust, and breach of the Charter for failing to disclose a reasonable cause of action and for being frivolous and vexatious. View decision [here](#).
- *John v. Peel Police*, 2016 ONSC 2012 Successfully argued four separate motions to strike four Statements of Claim issued by the same Plaintiff. Each motion was heard one after the other. Here, the court dismissed claims against police of negligent investigation and conspiracy for failing to disclose a reasonable cause of action and for being frivolous and vexatious. View decision [here](#).
- *John v. Peel Police*, 2016 ONSC 2013 Successfully argued four separate motions to strike four Statements of Claim issued by the same Plaintiff. Each motion was heard one after the other. Here, the court dismissed claims against police for negligent investigation, unlawful arrest and detention, breach of trust, and bad faith for failing to disclose a reasonable cause of action and for being frivolous and vexatious. View decision [here](#).
- *John v. Peel Regional Police*, 2016 ONSC 2014 Successfully argued four separate motions to strike four Statements of Claim issued by the same Plaintiff. Each motion was heard one after the other. Here, the court dismissed claims against police of negligent investigation, bias, bad faith, conspiracy, and harassment for failing to disclose a reasonable cause of action and for being frivolous and vexatious. View decision [here](#).
- *Unegbu v. WFG Securities of Canada Inc.*, 2015 ONSC 6408 Obtained summary judgment in an action against a financial advisor for negligence, misrepresentation, breach of fiduciary duty, and deceit. The motion judge dismissed the action on the basis of a missed limitation period. View decision [here](#).
- *Meady v. Greyhound Canada Transportation Corp.*, 2015 ONCA 6 Successfully defended an appeal regarding the admission of expert evidence at trial. The Court of Appeal upheld the exclusion of the Plaintiffs' proposed expert on police crisis management techniques when interacting with individuals who may be experiencing a mental health emergency. View decision [here](#).
- *Tyendinaga Mohawk Council v. Brant*, 2014 ONCA 565 Appellate counsel successfully responding to an appeal from a motion that permitted an aboriginal band to seize property from one of its members. This is the first Canadian case where enforcement of a judgment was permitted between aboriginals for reserve property that is protected by the Indian Act. View decision [here](#).
- *MacDonald v. Tam et al.*, 2013 ONSC 7214 Brought a successful motion to strike a Statement of Claim for trespass, unlawful arrest, and various Charter breaches on the basis of a missed limitation period. View decision [here](#).
- *Mohawks (Bay of Quinte) v. Maracle*, 2013 ONSC 4733 Acted

as counsel on a successful motion permitting an aboriginal band to seize or execute upon reserve property held by one of its members. This is the first Canadian case where enforcement of a judgment was permitted between aboriginals for reserve property that is protected by the Indian Act. View decision [here](#).

- *Penner v. Niagara (Regional Police Services Board)*, 2013 SCC 19 Appeared before the Supreme Court of Canada on an appeal regarding the application of the findings from a police discipline hearing to a subsequent civil action against police. View decision [here](#).
- *Meady v. Greyhound Canada Transportation Corp.*, 2012 ONSC 657 Acted as counsel with a team of lawyers to successfully defend a police force in a six month trial. The issue against police was whether the officers should have prevented an individual potentially experiencing a mental health emergency from boarding a bus that he ultimately overtook and caused to crash. View decision [here](#).
- *Hudgins v. Peel (Police Services Board)*, 2011 ONCA 763 Successfully defended an appeal from a motion striking a Statement of Claim for failing to disclose a reasonable cause of action. The dismissal of the claim against numerous defendants was upheld. View decision [here](#).
- *Harris v. Ontario*, 2011 ONSC 7514 Obtained a significant costs award following a successful two week trial defending a police force from various claims of negligent investigation and wrongful arrest. View decision [here](#).
- *Bloom v. Canada*, 2011 ONSC 673 Brought a successful motion to strike a Statement of Claim against a process server who served the Plaintiff with municipal tax documents. View decision [here](#).

MEMBERSHIPS

- Law Society of Ontario
- Ontario Bar Association
- The Advocates' Society
- Toronto Lawyers Association
- Canadian Defence Lawyers