



## Michael Barrack

Partner | Toronto

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Michael is recognized as one of the leading senior commercial litigators in Canada. In recent years, he has acted on some of the most significant litigation disputes in Canada for clients in various industries.

Michael has appeared at all levels of court in Canada, as well as at proceedings in the U.S. and England. He has represented clients in criminal jury trials, civil and constitutional appeals, and other cases that would be brought before the Supreme Court of Canada.

*Benchmark Litigation* wrote about him:

"Michael Barrack is a seasoned veteran litigator who has steadily received resounding praise from a staggering number of peers, many of whom reside well beyond the borders of his home province of Ontario. Of particular note is Michael's trial prowess, which has been called into service on many matters of a high-profile and high-stakes nature."

"When something looks like it's going to go all the way, Michael Barrack is someone you can count on to see it through. Even if it winds up settling on the courthouse steps, he is ready to walk up those steps at any time."

He is also noted as possessing "superior trial savvy, with a clinical, strategic approach that is never a bulldog-tantrum approach. It's more a street-fighter-meets-master-chess-player approach." On the strength of this collective acclaim, he was awarded "Trial Counsel of the Year".

## SELECT EXPERIENCE

Michael's representative matters include:

- Lead trial counsel for U.S. Steel in successfully asserting its US\$2-billion claim against U.S. Steel Canada in which the court provided a fundamentally revised test for the distinction between debt and equity
- Lead litigation counsel, representing U.K. pension claimants, in successfully obtaining a landmark "modified pro rata" allocation of US\$7.3-billion raised from the sale of the Nortel Networks global business units and patent portfolio
- Following a technologically advanced cross-border trial before Canadian and US Courts, the allocation between Nortel's bondholders, pensioners, suppliers and former employees is the first international insolvency case in which the proceeds from a sale of assets have been allocated to separate bankruptcy estates in different countries according to the claims of creditors
- Acting for Jack Ground, former Superior Court Justice, in his capacity as Litigation Trustee of Hollinger Inc., against Conrad Black, David Radler and other directors of Hollinger, a bank syndicate the lawyers and accountants of Hollinger Inc.

- Representing Nortel's U.K. pension interests in Nortel's worldwide insolvency proceeding including acting as lead counsel in a joint trial involving both the Canadian and Delaware courts
- Representing OMERS and Oxford at the Cunningham Inquiry into the conduct of Mayor Hazel McCallion in connection with her son's dealings with the City of Mississauga
- Acting for United States Steel Corporation and United States Steel Corporation Canada in the first Investment Canada Act prosecution in the statute's 40-year history
- Representing TransCanada in a high-profile dispute with the Government of Ontario over the cancellation of the Oakville power plant
- Representing the Toronto Stock Exchange's interests at the Ontario Securities Commission (OSC) on an appeal involving a dispute between CI Financial Inc. and The Bank of Nova Scotia
- Acting for the OSC on the prosecution against Ernst & Young in connection with their audit of Sino-Forest leading to a no-admission settlement and payment
- Representing Canadian Pacific Railway Corporation (CPRC) in lawsuits launched against the Governments of Canada, Alberta, Saskatchewan and Manitoba to recover taxes paid in contravention of a provision of the 1880 Charter of CPRC, which states that the main line shall "be forever free from taxation"
- Defending CP Ships in a cross-border securities class action, including developing a strategy that led to the U.S. class action being dismissed at the pleadings stage and ultimately leading to the settlement of the Canadian proceedings
- Acting as lead counsel on a bilateral investment treaty case for Encana Corporation against the Government of Ecuador before the London Court of International Arbitration

## **AWARDS & RECOGNITION**

Michael was named Ontario Trial Lawyer of the Year (2017), Ontario Litigator of the Year (2016) and National Trial Lawyer of the Year (2015) in the Benchmark Canada Awards. He is also recognized as a leading litigator in the following publications:

- *The Canadian Legal Lexpert Directory 2019* (Litigation - Directors' & Officers' Liability; Litigation - Corporate Commercial; Insolvency & Financial Restructuring - Insolvency Litigation; Litigation - Securities; Class Actions)
- *Chambers Global: The World's Leading Lawyers for Business 2019* (Dispute Resolution)
- *The Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada 2019* (Corporate Commercial Litigation and Directors' & Officers' Liability)
- *The Legal 500 Canada 2019* (Dispute Resolution - Leading Lawyer)
- *The Best Lawyers in Canada 2019* (Class Action Litigation, Corporate and Commercial Litigation, Director and Officer Liability Practice, Legal Malpractice Law and Securities Law)
- *Chambers Canada: Canada's Leading Lawyers for Business 2019* (Litigation: General Commercial - Ontario)
- *Chambers Global: The World's Leading Lawyers for Business 2018* (Dispute Resolution)

- *The 2018 Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada* (Corporate Commercial Litigation and Directors' & Officers' Liability)
- *The Legal 500 Canada 2018* (Dispute Resolution)
- *The Best Lawyers in Canada 2018* (Class Action Litigation; Corporate and Commercial Litigation; Director and Officer Liability Practice; Legal Malpractice Law and Securities Law)
- *The Canadian Legal Lexpert Directory 2018* (Class Actions; Insolvency & Financial Restructuring - Insolvency Litigation; Litigation - Corporate Commercial; Litigation - Directors' & Officers' Liability; Litigation - Securities)
- *The 2017 Lexpert Guide to the Leading US/Canada Cross-border Litigation Lawyers in Canada* (Corporate Commercial; Insolvency and Financial Restructuring)
- *Chambers Global: The World's Leading Lawyers for Business 2017* (Dispute Resolution)
- *Chambers Canada: Canada's Leading Lawyers for Business 2017* (Dispute Resolution)
- *The Legal 500 Canada 2017* (Dispute Resolution - Ontario)
- *The World's Leading Lawyers for Business 2017* (Dispute Resolution)
- *The 2017 Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada* (Litigation - Corporate Commercial)
- *The Best Lawyers in Canada 2016* (Class Action Litigation; Corporate and Commercial Litigation; Director and Officer Liability Practice; Legal Malpractice Law; Personal Injury Litigation - Medical Negligence; Securities Law - Litigation)
- *The Legal 500 Canada 2016* (Leading Lawyer - Dispute Resolution)
- *Benchmark Canada: The Definitive Guide to Canada's Leading Litigation Firms and Attorneys - 2014 Edition* (Local Litigation Star: Ontario - Civil Litigation, Commercial Litigation, Criminal Litigation and International Arbitration)
- Legal Media Group's *Guide to the World's Leading Litigation and Product Liability Lawyers 2014* (Litigation)

## PUBLICATIONS

[Co-author: Alberta Court Provides Clarity on Oppression Claims in CCAA Context](#)

Blakes Bulletin on Litigation & Dispute Resolution, March 13, 2017.

[Co-author: Court of Appeal Closes Door on U.S. Doctrine for Re-Ranking Creditors](#)

Blakes Bulletin on Litigation & Dispute Resolution, September 22, 2016

## PROFESSIONAL ACTIVITIES

Michael is an honorary overseas member of the Commercial Bar Association of the U.K. He is also among a distinguished group of the foremost Canadian advocates as a past president of The Advocates' Society. As a former founding director of Pro Bono Law Ontario and member of the Supreme Court Institute, Michael is dedicated to the pursuit of justice in the community and the promotion of excellence in advocacy in Canada.

Michael is currently chair of the Heart and Stroke Foundation of Ontario and has been active on a number of

boards of directors of community-based organizations.

## **EDUCATION**

Admitted to the Ontario Bar - 1982

LL.B., Osgoode Hall Law School - 1980

B.Comm., University of Toronto - 1977