



NICOLA
BRANKLEY
PARTNER

BIOGRAPHY

Nicola Brankley is a Partner and a member of the firm's Insurance Group.

Nicola provides coverage advice to primary and excess insurers on commercial general liability, professional errors and omissions, director and officers' liability, property, course of construction, and wrap-up policies.

She also acts as defence counsel on behalf of both insurers and insureds. Her defence work focuses on first party coverage, professional liability, construction, and complex property and general liability litigation matters. Nicola has successfully defended clients in individual claims, class actions, and mass tort litigation.

Nicola's clients include financial advisors and dealers, insurance brokers, MGAs, amateur sports organizations, accountants, engineers and others involved in the construction industry, as well as residential and commercial property owners.

Nicola has argued before all levels of court in Ontario, and, notably, has appeared as counsel before the Supreme Court of Canada (SCC) in a seminal case on pure economic loss. Her trial experience includes both jury and non-jury trials. She excels at balancing the nuances of complex cases with their place in the larger litigation context, allowing her to provide clients with thorough and strategic advice in the courtroom or as part of a mediated resolution.

ON A PERSONAL NOTE

Nicola can be found spending time with her husband and two daughters or

EMAIL nbrankley@ahbl.ca
TEL 416 639 9056
FAX 416 639 9061

EDUCATION

- 2012, University of Birmingham, LL.B.
- 2007, York University, B.A. (Hons.)

BAR ADMISSIONS

- 2014, Admitted to the Bar of Ontario

PRACTICE AREAS

INSURANCE

- Class Actions
 - Construction + Engineering
 - Coverage Disputes
 - Occupiers Liability
 - Directors + Officers
 - Professional Liability
-

valiantly trying to keep up with her team on the volleyball court.

REPRESENTATIVE EXPERIENCE

- Providing coverage advice regarding primary, excess, and tower coverage including on claims involving broker's negligence, police liability, multi-million-dollar property loss, and sexual assault.
- Defence of insurance brokers and brokerages from allegations of negligent advice, gaps in coverage, and failure to warn.
- Defence of financial advisors and dealers from allegations of investment loss and breach of regulatory and statutory requirements.
- Defence of engineers and other construction professionals related to various large construction projects including commercial properties and government infrastructure.
- Defence of retirement and long-term care homes in proposed class actions and mass torts against claims of negligence by residents and their families, including arising out of COVID-19.

Some of Nicola's recent decisions include the following:

- *The Tewaaron Lacrosse League v. Ontario Lacrosse Association*, 2022 ONSC 3592. Defeated an interlocutory injunction brought by a competing not-for-profit lacrosse league seeking to suspend regulations due to alleged unlawful interference in economic relations.
- Jury trial; additional reasons *Pullano v. Hinder and Magna International* 2019 ONSC 2362. Upheld on appeal 2022 ONCA 418. Defended client in civil battery claim and successfully obtained judgment on defamation counterclaim.
- *C.R. v. Her Majesty the Queen in Right of Ontario*, 2019 ONSC 2734; 2020 ONCA 198. Successful representation of Children's Aid Societies across Ontario in defeating claims of negligence and Charter breaches made by parents and family members of those in their care.
- *1688782 Ontario Inc. v. Maple Leaf Foods Inc.*, 2020 SCC 35, on appeal from 2018 ONCA 407. Obtained a dismissal of a class action involving claims for pure economic loss brought by franchisees against the manufacturer regarding contaminated food products.
- *Novak v. St. Demetrius (Ukrainian Catholic) Development Corporation*, 2017 ONSC 3503; 2017 ONCA 693. Successfully represented employer



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not-for-profit long term care home at trial and appeal where plaintiff alleged misrepresentation in the hiring process.

- *Horning v South Portage Development Inc. et al*, 2017 (unreported). Shut down a complicated claim of oppression, breach of contract, negligence, unjust enrichment, and conspiracy in a 7-day small claims trial against corporations and directors of the board of a fractional ownership resort.
- Obtained a dismissal in a motor vehicle accident claim on basis of failure to meet threshold required by the *Insurance Act* R.S.O. 1990, C.I.8. *Moyer v Agincourt*, 2015 (Jury trial).



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