



RAFAL
SZYMANSKI
PARTNER

BIOGRAPHY

Rafal Szymanski is a Partner and member of the firm's Insurance, Professional Liability, and Police Law Practice Groups.

Rafal is an experienced trial and appellate lawyer with a broad practice defending professionals in complex civil disputes and regulatory proceedings. Rafal is known for taking a practical approach to litigation.

He looks for efficient paths to resolution where possible but is not shy of a courtroom when necessary. He has appeared at all levels of court, ranging from the Small Claims Court to the Supreme Court of Canada.

Clients turn to Rafal for sensitive and high stakes matters that require sound judgment and strong advocacy. He works collaboratively with his clients to advance a compelling defence and achieve the right result for them.

Rafal routinely acts for financial advisors, insurance agents and brokers, mortgage brokers, appraisers, lawyers, and paralegals defending allegations of negligence, misrepresentation, and breach of fiduciary duty. His financial advisor clients appreciate his track record of favourable conclusions to investigations and prosecutions by their regulator.

Rafal is also frequently called upon by police service boards and their insurers to defend claims of unlawful arrest, use of force, negligent investigation, or various *Charter* breaches such as racial profiling or unlawful search and seizure. His police clients appreciate his discretion when dealing with sensitive issues under the microscope of public scrutiny.

ON A PERSONAL NOTE

EMAIL rszymanski@ahbl.ca
TEL 416 967 4224

EDUCATION

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

BAR ADMISSIONS

- 2010 Admitted to the Bar of Ontario

PRACTICE AREAS

BUSINESS

- Police Law

INSURANCE

- Professional Liability
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Rafal is an avid cyclist. When not working or spending time with family, Rafal spends hours pedaling through the countryside, up (and down) mountains, or around Mallorca.

REPRESENTATIVE EXPERIENCE

Rafal was counsel in many leading police civil liability cases:

- *Shanthakumar Estate v Canada Border Services Agency*, 2025 ONCA 422 – Retained to appeal a trial decision regarding officers’ use of unverified CPIC information in the formulation of grounds to arrest. The decision confirmed that police acting within the bounds of the *Criminal Code* are acting lawfully and that the law of negligence did not command a higher standard of care. The Court of Appeal clarified that the requirement to verify the information on CPIC before acting on it depends on the unique circumstances of each case.
- *Regional Municipality of Peel Police Services Board v. John*, 2020 ONSC 1058– Obtained an order declaring a serial litigant to be vexatious. The Respondent was prohibited from continuing any existing actions or commencing any further actions in Ontario without prior court approval.
- *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 alleged that he was unlawfully pulled over two days later. The request for judgment was denied.
- *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 a traffic stop. The finding of racial profiling was reversed and the judgment set aside.
- *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.
- *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. The resulting decision is the leading case in Canada on the doctrine of issue estoppel.



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- *Meady v. Greyhound Canada Transportation Corp.*, 2012 ONSC 657; aff'd 2015 ONCA 6 – Acted as co-counsel 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. Rafal also acted as co-counsel responding to the Plaintiffs' appeal, which was dismissed. 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.
- *Harris v. Ontario* (unreported, 2011) – Rafal's first trial, a successful defence of a wrongful arrest and negligent investigation claim against a police force following a two-week trial.

Rafal also has a track record of successfully defending other professionals in court proceedings:

- *Correct Building Corporation v. Lehman*, 2018 ONCA 462 – Successfully defended an appeal from a summary judgment dismissal of an action against an appraiser. The plaintiff alleged the appraiser overvalued a property, which 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.
- *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.
- *Unegbu v. WFG Securities of Canada Inc.*, 2015 ONSC 6408; aff'd 2016 ONCA 501 – Obtained summary judgment in an action against a financial advisor for negligence, misrepresentation, breach of fiduciary duty, and deceit on the basis of a missed limitation period. The dismissal was upheld on appeal.

Rafal's advocacy on behalf of financial advisors includes investigations and prosecutions by regulators such as the Canadian Investment Regulatory Organization and FP Canada:

- Rafal has experience responding to allegations relating to outside business activities, conflicts of interest arising from the receipt of money from a client or being a beneficiary in a client's will, misuse of electronic signatures, unauthorized disclosure of confidential information, making false or misleading statements to a Dealer Member, pre-signed/altered forms, etc.



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- Assisted advisors with successfully navigating the investigation process resulting in the regulator closing their file or escalating to enforcement on less serious allegations.
- Negotiated numerous Settlement Agreements resulting in favourable outcomes for the advisor in difficult circumstances.
- Conducted hearings on the merits to minimize the penalties otherwise facing the client.

Rafal has also acted as counsel on other important matters:

- *Evelyn v. Brown Partners* (2025, unreported) – Lead trial counsel acting for the Plaintiff in a wrongful dismissal claim advanced by a legal assistant against her former employer. After a four-week trial, Rafal secured judgment in his client's favour along with a meaningful damages award that included significant awards for aggravated and punitive damages.
- *Mohawks (Bay of Quinte) v. Maracle*, 2013 ONSC 4733; aff'd 2014 ONCA 565– Acted as co-counsel on a successful motion permitting an aboriginal band to seize or execute upon reserve property held by one of its members. The decision was upheld on appeal. This is the first Canadian case dealing with the enforcement of a judgment between aboriginals for reserve property protected by the *Indian Act*.

PROFESSIONAL & COMMUNITY AFFILIATIONS

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



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