

# DEVRY SMITH FRANK LLP

## Lawyers & Mediators



## DAVID LAVKULIK

### B.A., LL.B.

#### Areas of Practice: Insurance Defence, Mediation, Personal Injury

David Lavkulik is an established Toronto mediator at Devry Smith Frank LLP. David was called to the Bar in Ontario in 1995. He received a B.A. (Econ.) from the University of Toronto in 1990 and a law degree from the University of Victoria (B.C.) Law School in 1993. David is a partner at Devry Smith Frank LLP and works as a lawyer and mediator. He has been with DSF since 1999.

David has over 28 years of civil litigation experience, with a focus on Insurance-Personal Injury claims including Tort, Accident Benefits and Disability claims and Coverage disputes, Medical Malpractice claims, Professional Negligence, Employment Litigation, Estates Litigation, Real Estate Litigation, Commercial Litigation, and Sexual Abuse claims. Approximately 75% of his practice has been allocated to acting as counsel for various corporate defendants/insurers, with the remaining 25% allocated to acting for injured parties/plaintiffs.

He has appeared in all levels of court in Ontario including trials (jury and non-jury), the Court of Appeal, Costs hearings, as well as at the Financial Services Commission of Ontario.

David has extensive mediation experience, both as counsel and as a mediator. He has acted as a mediator in over 2000 claims. His work as a mediator has been described as "persistent", "patient", and a "demonstration of the real art of mediation". His experience in acting for both plaintiffs and defendants provides him with valuable insight into the perspectives of both sides, both as a mediator and as counsel.

David is distinguished as counsel by his ability to take on and turn around the most challenging cases where previous counsel was unable to achieve any results. His work as Plaintiff counsel on one such case was summarized by the Court following a 13-day jury trial as follows:

"This was a long, complicated and very demanding trial. It was, at the same time, a very well thought out, planned and presented a case that Ms. M's counsel placed before the jury... The health care issues were many and complex. Ms. M's counsel was challenged to marshal the evidence necessary to help the jury to appreciate and assess the issues. I allow counsel fees for Mr. Lavkulik as senior trial counsel as that was the role he fulfilled in that forum. Trials demand much from counsel. They are not an arena for the timid. Trials challenge the skills, training and experience of any counsel. They present difficulties and pitfalls not easily avoided. This case is no exception; in fact, it proves the point. To the extent that billing rates are a relevant factor, I prefer to view them in this case at the highest levels of those usually thought applicable for timekeepers of each level or range of experience considered."<sup>[1]</sup>

The judge's comments are particularly significant given the history of the claim (the action had been dismissed prior to David's involvement [2]) and the magnitude of the jury verdict [3] and trial judge's costs award.

David is also a part-time, yet award winning musician and songwriter. He plays guitar, keyboards and saxophone in several groups, is a member of the Nashville Songwriter's Association International and Songtown and can occasionally be heard performing at venues in the GTA and Nashville.

1. Mader v Hunter (2013) Costs Order following trial
2. Mader v Hunter (2004) Ontario Court of Appeal
3. The Jury Verdict and evidence at trial is summarized in the reasons at 1 above, and in the threshold decision at Mader v Hunter (2012) Threshold Motion following trial

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YEAR OF CALL: 1995

EDUCATION: University of Toronto, University of Victoria Law School.

ASSOCIATIONS: Songwriter's Association of Canada and Nashville Songwriter's Association.



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