

Preparing for change: Top 10 Insurance Defence Boutiques

Changes to simplified procedure in Ontario may drive litigation claims through a more efficient system

INSURANCE COMPANIES and their law firm partners in Ontario are preparing for the impact of amendments to Rule 76 of the Rules of Civil Procedure, which came into effect on Jan. 1. The new amendments include an increase in the ceiling for the use of the simplified procedure to \$200,000 from \$100,000 and a declaration that jury trials will no longer be permitted in Rule 76 action. The rule was initially introduced to simplify processes for actions of relatively low financial value that exceed the jurisdiction of Small Claims Court. Lawyers hope that the latest modifications will further reduce the cost of litigating claims.

"This is probably one of the most significant changes we've seen in 20 years," says Richard Hepner, a partner at Dutton Brock LLP. "There is a lot of belief that it will change how files are handled, and it may drive more litigation by virtue of its efficiencies. The process will be more streamlined so it should be a driver for business," he adds. The fact that juries will no longer be used in such cases is a positive change, in Hepner's opinion, as it may

encourage plaintiffs to file claims under the simplified procedure and result in an increase in caseloads.

Eric Grossman, a founding partner at boutique firm Zarek Taylor Grossman Hanrahan LLP, says of the amendment: "Anything new brings with it challenges and uncertainty into how it will be enforced and applied and how creative counsel will use it to their advantage, so we don't have concerns per se, but we are curious to see how it will play out."

Like many insurance companies, Aviva Canada is preparing for the changes to the legislation.

"Whether there will be an uptick in volume is still unknown, but we intend to continue handling our files in the same principled approach and treating every case on its merits," says Lianne Furlong, vice president, legal claims at Aviva Canada and chief litigation counsel at Aviva Trial Lawyers. "We will continue trying to provide the best defence and then wait to see how the changes affect us."

Aviva has been working with ZTGH since 2015, and Furlong greatly values the service the firm provides.

"ZTGH is a firm filled with highly competent, skilled lawyers with expertise in the area not only to handle our litigation but to help us develop our approach to litigation generally, and we work together on each and every file so we are making the right calls and doing the right thing for our customers," she says.

Grossman says the firm's specialization in insurance work allows his team to provide services at a lower cost than some of its competitors.

"Sometimes, we are able to provide services beyond just pure litigation such as trouble-shooting and training and educating and allowing our clients to be more proactive in their file handling," he says.

Aviva works with partner firms of varied sizes that have a footprint in different jurisdictions.

"This gives us the flexibility to pick the right firm for each case and to have the best



HOW WE DID IT



Last year, *Canadian Lawyer* asked lawyers, in-house counsel and clients from across Canada to vote on the top insurance defence boutiques. They were asked to rank their top firms from a preliminary list, with a chance to nominate a firm that was not included. To qualify for our list and be voted for in our survey, firms were required to derive a minimum of 80 per cent of their work from as well as self-identify as focusing on insurance defence law.

representation for that client or customer,” says Furlong.

As the largest defence boutique in Ontario, Dutton Brock LLP represents 14 of the leading insurance companies in Canada. Despite challenges faced by many insurance defence boutiques as a result of competition from a growing number of in-house departments at insurance companies, Dutton Brock has weathered the storm successfully.

“Through a combination of being the right size and having the right speciality, we can

handle commodity work and also take on more specialized commercial insurance litigation,” says Stephen Mullings, a partner at Dutton Brock. “We’re excited for the future, and we’re in a position to really move forward in terms of adapting to the changes that the industry is going through and the needs of our clients.”

For her part, Furlong says that Aviva anticipates having plenty of work for her in-house department and for external law firms in 2020.

Top 10 Insurance Defence Boutiques

(listed alphabetically)

Dutton Brock LLP

Toronto
duttonbrock.com

Dutton Brock LLP is one of the largest pure insurance defence firms in Canada, having been in business for more than 35 years. The firm has extensive expertise in most insurance-related matters, including class proceedings, motor vehicle actions, occupier’s claims, product liability, insurance coverage issues, major class actions and professional negligence cases. *Expert* lists Dutton Brock as the most frequently recommended commercial insurance litigation firm in Canada and *Canadian Lawyer* has consis-

tently named it as one of Canada’s top 10 insurance defence law boutiques. The team includes six certified specialists in civil litigation by the Law Society of Ontario, four named in the peer-reviewed Best Lawyers in Canada for Insurance Law, two fellows of the American College of Trial Lawyers, former president of The Advocates’ Society and six past directors, four former presidents of the Toronto Lawyers Association, two former presidents of the Medico-Legal Society of Toronto and two former presidents of the Canadian Defence Lawyers association. The firm has long held the top AV rating in the Martindale-Hubbell Bar Register of Preeminent Lawyers.