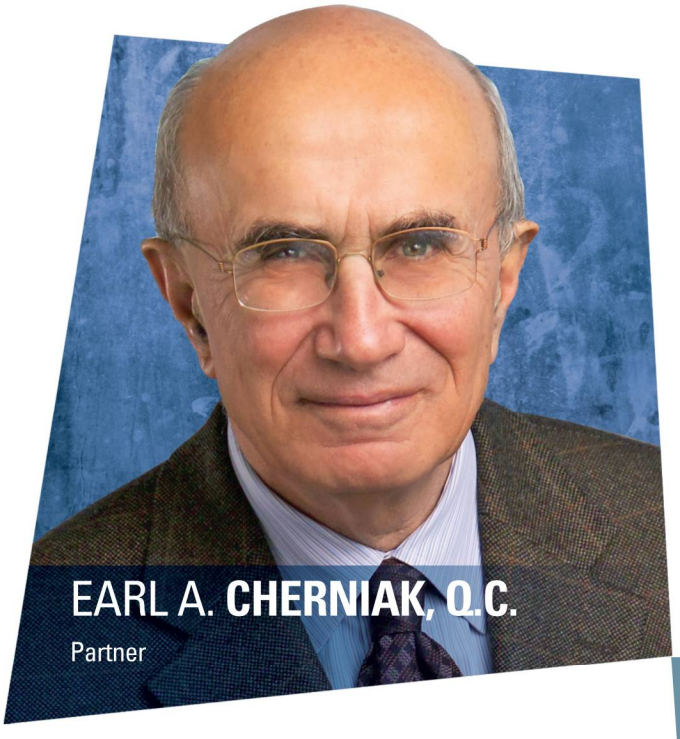

EARL A. **CHERNIAK, Q.C.**

Partner

"He who wins last, wins"

Appellate Advocacy Group

Professional history

- Partner, Lerners LLP
- The Law Society of Upper Canada and Chair and Vice –Chair of Proceedings Authorization Committee, 1999 - 2007
- Fellow, The Chartered Institute of Arbitrators, July 2006
- Panel Member, International Arbitrations, International Centre for Dispute Resolution (ICDR/AAA)
- Member, Canadian Roster of Arbitrators, International Chamber of Commerce (ICC)
- Roster Member, London Court of International Arbitrators (LCIA)
- Member, Executive Committee (and Past Chair), Toronto Commercial Arbitration Society

Noteworthy Cases

- Honda Canada Inc. v. Keays (2008), 66 C.C.E.L. (3d) 159 (SCC)
- Canadian National Railway Co. v. Royal and Sun Alliance, [2008] 3 S.C.R. 53
- Amnesty International Canada and British Columbia Civil Liberties Association v. Chief of the defence staff for the Canadian Forces, Minister of National Defence and Attorney General of Canada (2008), FAC 401 (Fed. C.A.)
- Marcoccia v. Ford Credit Canada Limited, [2009] O.J. No. 1548 (C.A.)
- Sandhu (Litigation Guardian of) v. Wellington Place Apartments, [2008] O.J. No. 1148 (C.A.)
- Canadian National Railway Company v. Royal and Sun Alliance Insurance Company of Canada, 2007 ONCA
- Re Ravelston Corp. (2007), 29 C.B.R. (5th) 45, 85 O.R. (3d) 175 (Ont. C.A.)
- Cosgrove v. Canadian Judicial Council (2007), 361 N.R. 201, 279 D.L.R. (4th) 352 (F.C.C.A.)
- Keays v. Honda Canada Inc., 2007 ONCA 564 (CanLII)
- Walker v. Ritchie, [2006] 2 S.C.R. 428 • (2006), 273 D.L.R. (4th) 240 • (2006), 217 O.A.C. 374
- Pereira v. Hamilton Township Farmers' Mutual Fire Insurance Company, 2006 CanLII 12284 (ON C.A.); 2006 CanLII 20680 (ON C.A.) • (2006), 267 D.L.R. (4th) 690 • (2006), 209 O.A.C. 127

- Cowles v. Balac, 2006 CanLII 41806 (ON C.A.); Cowles v. Balac, 2006 CanLII 34916 (ON C.A.); Leave to Appeal dismissed (31766) 2007 CanLII 6833 (S.C.C.)
- Cosgrove v. Canadian Judicial Council (2005), 261 D.L.R. (4th) 447 (F.C.)
- David Polowin Real Estate Ltd. v. The Dominion of Canada General Insurance Company (2005), 255 D.L.D. (4th) 633 (C.A.)
- Chaoulli v. Quebec (Attorney General), [2005] S.C. J. No. 33 (S.C.C.)
- HSBC Securities (Canada) Inc. v. Davies, Ward & Beck (2005), 74 O.R. (3d) 295, 249 D.L.R. (4th) 571 (Ont. C.A.)
- Ontario (Ministry of Labour) v. Brampton Brick Ltd. (2004), 189 O.A.C. 44 (Ont. C.A.)
- Childs v. Desormeaux, [2004] O.J. No. 2065 (C.A.)
- Mizzi v. Hopkins (2003), 171 O.A.C. 161, 64 O.R. (3d) 365 (Ont. C.A.)
- Ferme Gerald Laplante & Fils Ltee v. Grenville Patron Mutual Fire Insurance Co [2002] O.J. No. 4175 (C.A.)
- Toronto-Dominion Bank v. Leigh Instruments Limited (Trustee of) (1999), 45 O.R. (3d) 417 (C.A.)
- Whiten v. Pilot Insurance Co., [2002] S.C.R. 595, 209 D.L.R. (4th) 257, 156 O.A.C. 201, 20 B.L.R. (3d) 165, 35 C.C.L.I. (3d)
- Chippewas of Sarnia Band v. Canada (Attorney General) (2000), 195 D.L.R. (4th) 135 (Ont C.A.)

Achievements

- Lexpert Zenith Award (2012)
- Gold Medalist, Osgoode Hall Law School (1960)
- Appointed Queen's Counsel (1974)
- President, The Advocates' Society (1979-1980)
- Elected Fellow, American College of Trial Lawyers (1982)
- Elected Fellow, International Academy of Trial Lawyers (1987)
- The Advocates' Society Medal (1996)
- First recipient of the Ontario Bar Association Award for Excellence in Civil Litigation (2004)
- Recipient of the 2006 Osgoode Hall Law School Alumni Gold Key Award
- Selected by peers to be included in the 2006 Lexpert Guide to the 100 Most Creative Lawyers in Canada; the 2015 Lexpert Guide to the U.S./Canadian Cross-Border Litigation Lawyers in Canada; the 2014 Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada; and the 2015 Canadian Legal Lexpert Directory
- Recognized and selected as one of "The Best Lawyers in Canada" as published by Woodward/White in the United States, since 2006

Selected presentations/publications

- "Toronto arbitration profile bolstered", AdvocateDaily.com, May 30, 2013
- "Uniform arbitration law needed in Canada", AdvocateDaily.com, April 22, 2013
- "The danger of non-discolsure", The Lawyers Weekly, March 29, 2013
- "Balancing the duty to disclose", AdvocateDaily.com, March 26, 2013
- On Being a Commercial Arbitrator: Lessons Learned - Canadian Arbitration and Mediation Journal, Spring/Summer 2012
- One Arbitrator or Three? (written with J.L. McDougall), Lawyers Weekly, February 2009
- The Future of Compensatory, Aggravated and Punitive Damages Post Honda, Employment Law Summit, October 30, 2008

- Defending a Case for Aggravated and Punitive Damages, Law Society of Upper Canada, June 10, 2008
- Reflections of a Domestic Commercial Arbitrator, The Advocates' Society of Ontario, 2007
- Awards, Costs, Appeals in Arbitration, Law Society of Upper Canada, 2007
- CBA Conference Panel, International Arbitrations, Vancouver, June 2005
- Privilege Issues and the Barrister's Brief, COMBAR Meeting, Barcelona, Spain, June 4-5, 2004; the American College of Trial Lawyers and the Advocates' Society of Ontario joint conference, April 12, 2004.
- Professionalism at the Crossroads, COMBAR Meeting, Boston, May 31, 2003; The Advocates' Society Fall Convention, Cancun, Mexico, November 2003.
- Selection and Preparation of Experts, The Art & Science of Trial Advocacy, The Advocates' Society American College of Trial Lawyers, May 2, 2003
- How to Protect Against A Punitive Damage Award, Canadian Institute Insurance Litigation, June 14, 2002
- Advocacy on Appeal, Ontario Trial Lawyers' Association, October 27, 2001
- Chippewas of Sarnia Band v. Canada, October 26, 2001, The Canadian Aboriginal Law 2001 Conference, October 25 and 26, 2001

Memberships

- Canadian Bar Association
- Canadian Institute for the Administration of Justice
- The Advocates' Society
- American College of Trial Lawyers
- International Academy of Trial Lawyers
- International Association of Jewish Lawyers & Jurists (Canadian Section)
- Osgoode Society
- Toronto Lawyers' Club
- Toronto Lawn Tennis Club
- Member, Honorary Council, London Health Sciences Foundation (1998)
- Member and Vice-Chairman, Board of Directors, Victoria Hospital Corporation (1982-1989)

Complementary areas of practice

- Commercial litigation
- Class Actions
- Arbitration, as counsel and arbitrator

Education

- Osgoode Hall Law School (LLB) (1960)
- Gold Medalist, Osgoode Hall Law School (1960)
- University of Western Ontario (BA) (1956)

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