



Marco P. Falco

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Marco is a partner in the Litigation Department at Torkin Manes. He provides written advocacy and opinions on a range of topics in the civil litigation and corporate / commercial context. He has drafted legal memoranda, facta and materials for all levels of court, with an emphasis on applications for judicial review and civil appeals.

While his practice engages the full spectrum of legal services offered at Torkin Manes, his areas of focus include administrative law, commercial litigation, professional discipline, labour and employment law, corporate law, and insolvency.

Marco has published many articles on a host of legal issues and is Chief Editor of Torkin Manes LegalWatch. His legal articles and analyses have been cited in a leading national newspaper.

Marco is also actively engaged in the University of Toronto's Alumni Mentorship programs, providing mentorship to students in the Faculty of Arts & Science and the Faculty of Law.

In 2017, Marco was recognized as a leader in his field in *The 2017 Canadian Legal Expert Directory*.

Publications & Presentations

Marco has published many articles on a host of legal issues and is Chief Editor of Torkin Manes LegalWatch.

Marco is the Editor-in-Chief, *Avvocato Newsletter*, the quarterly publication of the Canadian Italian Advocates' Organization.

Marco has been involved in many in-house and external continuing education programmes, for lawyers, law clerks and clients alike, including:

- **"Why appealing commercial arbitration awards is an uphill struggle"**, *The Lawyer's Daily*, March 26, 2018
- **"Major Changes to Door-to-Door Home Services Contracts Effective March, 2018"**, Torkin Manes LegalPoint, March 2018

Services

- Litigation

Education

- J.D., Faculty of Law, University of Toronto, 2004
- M.A., English, University of Toronto, 2000
- B.A. (Honours, with High Distinction), English and Italian Literature, University of Toronto, 1999

Credentials

- Called to the Ontario Bar, 2005

Recognition

- *The Canadian Legal Expert Directory - Litigation - Corporate Commercial* (2017)

- **“Appealing a Stay of Your Arbitral Award? Make Sure You’re in the Right Place.”**, Torkin Manes LegalPoint, February 2018
- **“Seeking a Corporate Oppression Remedy? Make Sure Your Hands Are ‘Clean’”**, Torkin Manes LegalWatch, January 2018
- **“The Admissibility of Post-Contract Evidence in Canada”**, American Bar Association, *Business Law Today*, December 14, 2017
- **“Is An Expert Diagnosis Required to Prove Mental Injury?”**, Torkin Manes LegalWatch, December 2017
- **“Want to Appeal a Commercial Arbitration Award? Make Sure You Secure Broad Rights of Appeal”**, Torkin Manes LegalWatch, November 2017
- **“Should Security for Costs Motions be Treated Differently when a Foreign Judgment is Involved?”**, Torkin Manes LegalWatch, October 2017
- **“Can a ‘Non-Party’ Director of a Corporation be held Personally Liable for litigation costs?”**, Torkin Manes LegalWatch, September 2017
- **“Appealing Arbitral Awards: Why the Courts’ Role is Limited”**, *ADR Forum* (September 2017, No. 92).
- **“Appealing Arbitration Awards: Why the Courts’ Role is Limited”**, Torkin Manes LegalWatch, August 2017
- **“When Can the Director of a Corporation Be Held Personally Liable for Oppression?”** Torkin Manes LegalWatch, July 2017
- **“Does an Insurer Have a Good Faith Duty to Advise the Insured about a Limitation Period?”**, *Canadian Insurance Law Reporter*, June 2017, No. 798.
- **“Partisans at the Gate: Expert Evidence and the Ongoing Duties of the Trial Judge”**, Torkin Manes LegalWatch, June 2017
- **“University of Toronto’s Job Shadowing Extern Program”**, Hosted University of Toronto’s *Job Shadowing Extern Program*, Torkin Manes LLP, June 7, 2017
- **“The Factual Matrix: Knowledge and Conduct as an Aid to Contractual Interpretation”**, *Commercial Litigation and Arbitration Review*, May 2017, Vol. 6, No. 2 at 27, May 2017
- **“Does an Insurer Have a Good Faith Duty to Advise the Insured about a Limitation Period?”** Torkin Manes LegalWatch, May 2017
- **“2017 Case Law Update”** The Canadian Bar Association’s Charity Law Symposium, May 2017
- **“Contractual Interpretation on Appeal: A Clarification”**, Torkin Manes LegalWatch, April 2017
- **“The Admissibility of Post-Contract Evidence in Canada”**, American Bar Association, *Commercial Law Newsletter*
- **“What You Need to Know about Reconsiderations, Appeals and Judicial Review”**, Ontario Bar Association, *Adjudicative Tribunal Practice Primer*, April 2017
- **“When Are Conclusions of Law Made in a Summary Judgment Motion Binding on the Trial Judge?”**, Torkin Manes LegalWatch, March 2017
- **“Innis and Woodsworth Employment Series Workshop”**, Panelist, Faculty of Arts and Science,

University of Toronto, February 2017

- **“When Will Courts Use Post-Agreement Behaviour to Interpret a Commercial Contract?”**, Torkin Manes LegalWatch, February 2017
- **“The Perils of Taking ‘No Position’ on a Summary Judgment Motion”**, Torkin Manes LegalWatch, January 2017
- **“The Law of Unintended Consequences: Supreme Court Rules on Rectification”**, Torkin Manes LegalWatch, December 2016
- **“High Deference: Appellate Review of Arbitration Rulings in Canada”**, American Bar Association’s *Appellate Practice* (Fall 2016) Vol. 36, Issue 1.
- **“‘Sloppy Paperwork’ Does Not an Oppression Claim Make”**, Torkin Manes LegalWatch, November 2016
- **“The ‘Purposive’ Approach to Statutory Interpretation: What Does it Mean?”**, Torkin Manes LegalWatch, November 2016
- **“Reasonableness standard affirmed in insurance case”**, *Lawyer’s Weekly*, October 2016
- **“Using the Oppression Remedy to Recognize Beneficial Shareholder Interests”**, Torkin Manes LegalWatch, October 2016
- **“The Meaning of ‘Or’: Modern Approaches to Statutory Interpretation”**, Torkin Manes LegalWatch, September 2016
- **“Why Do Appeal Courts Defer to the Decisions of Commercial Arbitrators?”**, Torkin Manes LegalWatch, August 2016
- **“On Second Thought: Overturning Damages Awards on Appeal”**, Torkin Manes LegalWatch, July 2016
- **“Directors’ liability for statutory breaches: lifting the corporate veil”**, *Canadian Lawyer*, In-House, July 2016
- **“Are Option Agreements Unbalanced? They Should Be.”**, Torkin Manes LegalWatch, July 2016
- **“When Some Are Not Enough: Appealing Trial Judgments for Lack of Reasons”**, Torkin Manes LegalWatch, June 2016
- **“A Modest Change: Good Faith and the Duty of Honest Contractual Performance in *Bhasin v. Hrynew*”**, *Advocates’ Quarterly*, May 2016
- **“Why a Contract Clause’s Purpose Matters”**, Torkin Manes LegalWatch, May 2016
- **“Unbiased Opinion: The Objective Expert Witness in Canada”**, American Bar Association. *Litigation*. Vol. 42, No. 3, Spring 2016
- **“When Landlords Act Unreasonably: The Effect of Hudson’s Bay Co. v. Omers Realty Corp. On Lease Assignments”**, *National Insolvency Review*, April 2016
- **“Good Faith and Reasonableness: Two Limits on Canadian Freedom of Contract”**, *Business Law Today*, April 2016
- **“Intentional Interference with Economic Relations: A Narrow, but Powerful Tort”**, Torkin Manes LegalWatch, April 2016

- **“Can a Director Be Held Personally Liable for Misrepresentations Made During a Real Estate “Flip”?”**, Torkin Manes LegalWatch, March 2016
- **“When is a Guarantee Unenforceable?”**, Torkin Manes LegalWatch, February 2016
- **“Keep it in the family but formalize the relationship”**, *Lawyer’s Weekly*, January 2016
- **“Can a Court Imply Terms in a Commercial Agreement?”**, Torkin Manes LegalWatch, February 2016
- **“Are Parties Required to Act Reasonably When Choosing Not to Renew a Contract?”**, Torkin Manes LegalWatch, January 2016
- **“Can the Director of a Corporation Be Held Personally Liable for Environmental Contamination?”**, Torkin Manes LegalWatch, December 2015
- **“Defamation for Dummies”**, Torkin Manes In-House Professional Development Seminar, November 2015
- **“Don’t Lie to an Employee: The Dangers of an Employer’s Dishonest Contract Negotiations”**, Torkin Manes LegalWatch, November 2015
- **“Refining the Limits of Inadequate Disclosure”**, *Lawyers Weekly*, October 2015
- **“Medical Malpractice Law: Intricacies of the Common Law”**, *Annual Review of Civil Litigation*, October 2015
- **“When is a Commercial Landlord’s Consent to a Lease Assignment or Sublease Required?”**, Torkin Manes LegalWatch, October 2015
- **“Franchisors Beware: Terminating Franchise Agreements for Inadequate Financial Disclosure”**, Torkin Manes LegalWatch, September 2015
- **“When Must a Plaintiff Sue for Corporate Oppression?”**, *The Corporate Brief*, No. 252, August 2015
- **“When Will a Company Be Held Liable for Opinions Given During a Public Offering?”**, Torkin Manes LegalWatch, August 2015
- **“When Must a Plaintiff Sue for Corporate Oppression?”**, Torkin Manes LegalWatch, June 2015
- **“Can the Director of a Corporation Be Held Personally Liable for Unpaid Wages and Termination Pay?”**, Torkin Manes LegalWatch, June 2015
- **“The Unbiased Expert: Challenging the Admissibility of Expert Evidence in *WBLI v. Abbott and Haliburton*”**, Torkin Manes LegalWatch, May 2015
- **“Working in Law Panel”**, Next Steps Conference, Faculty of Arts and Science, University of Toronto, April 2015
- **“Undue Influence: The Preparation and Use of Expert Reports in *Moore v. Getahun*”**, *Advocates’ Quarterly*, April 2015
- **“Do Experts Always Have to Produce a Report to Give an Opinion at Trial?”**, Torkin Manes LegalWatch, March 2015
- **“Talk to an Expert: The Preparation and Use of Expert Reports in Litigation”**, Torkin Manes LegalWatch, February 2015

- **“The Duty of Honest Contractual Performance”**, Torkin Manes LegalPoint Video, February 2015
- **“Court of Appeal Allows Action for Breaches of Privacy Relating to Personal Health Information”**, Torkin Manes LegalWatch, February 2015
- **“The Dismissal of Civil Actions at Status Hearings”**, Torkin Manes LegalWatch, January 2015
- **“Promise Not to Lie”: The Duty of Honest Contractual Performance in Canada**, American Bar Association, Business Law Today, December 2014
- **“Be Honest”: Supreme Court of Canada Recognizes the Duty of Honest Contractual Performance**, Torkin Manes LegalWatch - November 2014
- **“Disclosure of Wiretap Communications in a Civil Proceeding”**, Torkin Manes LegalWatch - November 2014
- **“Backpack 2 Briefcase”**, Career Panel, Faculty of Arts and Science, University of Toronto, October 2014
- **“Discoverability in a Medical Malpractice Action”**, Torkin Manes LegalWatch - October 2014
- **“Trust Funds Under CLA Must Meet Common Law Definition of Trust to Survive a Bankruptcy”**, Torkin Manes LegalWatch - September 2014
- **“Trust Funds Under CLA Must Meet Common Law Definition of Trust to Survive a Bankruptcy”**, National Creditor Debtor Review, (2014) 29 N.C.D. Rev. 33
- **“Supreme Court of Canada Limits Ability to Appeal Arbitral Interpretations of a Contract”**, Torkin Manes LegalWatch - August 2014
- **“Secrets Revealed: The Disclosure of Expert Files in Litigation”**, Money & Family Law, June 2014, Issue 29-6.
- **“Where Does the Onus Lie Where There are Material Misrepresentations in a Separation Agreement?”**, *Money and Family Law*. August 2014, Issue 29-8
- **“Supreme Court Uses Doctrine of Stare Decisis To Prevent Re-Litigation of Claims”**, Torkin Manes LegalWatch - July 2014
- **“Piercing the Corporate Veil Where a Company Misappropriates Funds”**, Torkin Manes LegalWatch - June 2014
- **“Where Does the Onus Lie Where There are Material Misrepresentations in a Separation Agreement?”**, Torkin Manes LegalWatch - June 2014
- **“Disclosure of an Expert’s File”**, Torkin Manes LegalWatch - May 2014
- **“Professional Services Partnerships and Human Rights Legislation”**, Torkin Manes LegalWatch - May 2014
- **“Misdemeanors In Wills”**, Torkin Manes LegalWatch - March 2014
- **“Culture Shift” on Summary Judgment**, Torkin Manes LegalWatch - March 2014
- **“Legal Research in Practice: A Guide for Articling Students”**, Ontario Bar Association, Surviving and Thriving Articles and the LPP (with with Jeanette Bosschart)
- **“Our Second Home: When Does a Cottage Amount to A Matrimonial Home Under the *Family Law Act*?”**, *Money and Family Law*, September 2013

- **“Excelling at Articles: Legal Research Methodology”**, Ontario Bar Association, August 21, 2013
- **“Intrusion Upon Seclusion: Common Law for the 21st Century”**, Canadian Italian Advocates’ Organization Newsletter, L’Avvocato, Summer 2012
- **“You’re Outta Luck, You’re Outta Time: Recent Developments in Ontario Limitations Law”**, Torkin Manes In-house Professional Development Seminar, January 2011
- **“Are you Ready? - The Changes to the Rules of Civil Procedure”**, with Barbara A. MacFarlane at the Institute of Law Clerks of Ontario, April 2010

Memberships

- American Bar Association
- Canadian Bar Association
- Canadian Italian Advocates’ Organization
- Ontario Bar Association

Community Involvement

- Alumni Mentor, University of Toronto, Faculty of Law
- Alumni Mentor, University of Toronto, Faculty of Arts & Science