

Lawyer Profile

SIMON POTTER



TITLE
Partner

OFFICE
Montréal

LAW SCHOOL
**McGill University,
LLB, 1974**

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Québec, 1975

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Biography

Simon Potter is a partner in our Litigation Group in Montréal. He is highly regarded for his versatility as a corporate and commercial trial and appellate lawyer, and his experience in all areas of administrative law dealing with trade and competition issues.

Mr. Potter appears regularly before all federal and Québec courts as well as before numerous regulatory boards and other agencies, such as the Canadian International Trade Tribunal and the Competition Bureau.

In his commercial litigation practice, he has handled a variety of cases ranging from class actions to corporate contractual liability to competition issues and constitutional questions, including the challenge of the federal legislation banning the Canadian advertising of tobacco products.

Mr. Potter has participated in binational panels created under Chapter 19 of the NAFTA to review determinations of dumping and of subsidizations, as well as on a binational panel formed under Chapter 20 of the FTA to hear a dispute between Canada and the United States as to American regulations imposing minimum sizes for lobster imported from Canada.

He also has experience in handling major arbitrations, both at the national and international levels either as counsel to a party or as an arbitrator.

Over the years, Mr. Potter has taken an active part in the direction of various bar associations, including the Canadian Bar Association, of which he was President for the year 2002-2003. Mr. Potter is a Fellow of the American College of Trial Lawyers and a member of the American Bar Association, the International Bar Association, the London Court of International Arbitration and the Permanent Court of Arbitration. He is also a member of the Advisory Board of the Canadian Forum on Civil Justice.

Mr. Potter has frequently appeared as a leading lawyer in the *Chambers Global: The World's Leading Lawyers for Business* and in the *Canadian Legal Expert Directory*, a guide to the leading law firms and practitioners in Canada, as a leading lawyer in the areas of dispute resolution, international trade regulation and litigation,

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Lawyer Profile

SIMON POTTER

corporate commercial litigation, class action litigation and public law. He is also repeatedly recommended in the areas of international commercial arbitration and litigation-directors & officers liability competition law.

He is also listed in the *Lexpert American Lawyer Guide to the leading 500 Lawyers in Canada* as a leading lawyer in the areas of class action litigation, corporate commercial litigation and international trade.

He received his B.A. from Dartmouth College in 1971, and his LLB from McGill University in 1974. Mr. Potter was called to the Québec bar in 1975.

Publications and Conferences

- “The Anti-Dumping Act of Canada from the Point of View of the Importer,” Law Society of Upper Canada Lectures, December 1978.
- “The Insurability of Punitive Damages,” Meredith Memorial Lectures, McGill University, 1984-1985.
- “Using and Avoiding Anti-Dumping Countervail and Safeguard Actions,” International Trade for the Non-Specialist - National CLE Trade Program, August 20, 1988.
- “The Canada-U.S. Free Trade Agreement: The problems which come with success,” The International Bar Association Meeting in Buenos Aires, Argentina, September 27, 1988.
- “Customs Duties, Quotas and Rules of Origin from the Canadian Perspective,” State Bar of Wisconsin, February 2, 1989.
- “Transactions d’initiés - Nouveaux développements” (insider trading), Canadian Bar Association, October 17, 1989.
- “Les Complots” (Article 45, Loi sur la concurrence), November 1989.
- “National standards and International Trade,” International Bar Association, September 20, 1990.
- “Class Actions - Quebec’s Experience and Ontario’s Proposal,” Insight Educational Services, April 11, 1991.
- “Procurement and the Free Trade Agreement,” American Bar Association, Washington, April 26, 1991.
- “The Expropriation of Intellectual Property,” Patent and Trademark Institute of Canada, September 12, 1991.
- “Restrictions on the Importation of Intellectual Property Due to Competition Laws,” The Continuing Legal Education society of British-Columbia, Vancouver, March 6, 1992.
- Speaker at the Lake Champlain Regional Chamber of Commerce, International Trade Committee, Burlington, Vermont, May 6, 1992.

Lawyer Profile

SIMON POTTER

- “Le droit à une société libre et démocratique: l’article 1 de la Charte canadienne/la preuve requise et sa nature,” Institut canadien d’études juridiques supérieures, Journées strasbourgeoises 1992 - Strasbourg, July 1992.
- “NAFTA’s Chapter 19 Regime on Antidumping and Countervailing Duty Matters,” Tenth International Trade Law Seminar, Department of Justice, Ottawa, October 15, 1992.
- “The Winning Edge - Computer Assisted Litigation,” Guest speaker of the Canadian Bar Association - Toronto, November 7, 1992.
- “Chapter 19 of NAFTA: Dispute Resolution in Antidumping and Countervail Matters,” Presentation to Parliamentary Committee in Ottawa, November 26, 1992.
- “NAFTA and Dispute Settlement,” The American Conference Institute, Washington, December 2-3, 1992.
- “Trade Policy Aspects of Industrial Policy in Canada,” Canada-U.S. Law Institute - Cleveland, Ohio, April 16-18, 1993.
- “Managing the Evidence at Trial,” Hot Topics in Corporate Litigation, The American Bar Association/The National Institute, Chicago, June 10-11, 1993.
- “Gestion des différends commerciaux,” Centre for Trade Policy and Law, June 23, 1993.
- “Overview of Products Liability Law in Canada: Quebec Steps Out Ahead,” International Association of Defense Counsel, London, July 11-17, 1993.
- “An American Abroad: Transnational Litigation Issues Facing U.S. Corporations,” American Bar Association, New York, August 6-10, 1993.
- “Directors’ Liability,” Managing Corporate Behaviour, Canadian Corporate Counsel Association, Québec, August 20-24, 1993.
- “The North American Free Trade Agreement and its application in the settlement of trilateral trade conflicts,” International Bar Association, 11th Biennial Conference of the Section on Business Law, New Orleans, October 10-15, 1993.
- “Les contrats d’adhésion,” Canadian Trust Companies Association, Montréal, October 27, 1993.
- “NAFTA’s Adjudication of Trade Disputes,” The Canadian Institute, Toronto, January 13-14, 1994.
- “Cross-Border Suing: An American Litigant in the Paris of North America,” American Bar Association, Denver, January 19-22, 1994.
- “Jurisdiction: Refusing It and Taking It In Canada,” International Association of Defense Counsel, Colorado Springs, July 1994.

Lawyer Profile

SIMON POTTER

- “The Treatment of Confidential Information by the Bureau of Competition Policy,” The Canadian Corporate Counsel Association, Sixth Annual Meeting, Toronto, August 23, 1994.
- “Directors’ and Officers’ Liability: Defensive Strategies,” L’Association des Secrétaires et Chefs de Contentieux du Québec, Club St. Denis, Montréal, June 19, 1995.
- “Trade-Related Litigation for Governments and Private parties,” American Bar Association Annual Meeting, Chicago, August 6-9, 1995.
- “Advertising Freedom - Summary and Selected Extracts from the Judgment of the Supreme Court of Canada in RJR MacDonald Inc. and Imperial Tobacco Limited v. the Attorney General of Canada,” Conference by Forum Europe, Brussels, November 21, 1995.
- “The Rule of Law, Fundamental Freedoms and Tobacco Advertising in Canada,” Article on cigarette advertising published in Volume XXIX, Spring 1996, The Canadian Law Newsletter.
- “Preparing for the Hearing of the Canadian International Trade Tribunal,” The Canadian Importers Association Inc., Third Annual Conference, Toronto, may 27, 1996.
- “The Supreme Court of Canada, The Government of Canada and Tobacco Advertising: Should we be surprised? What can we predict?” Rothmans International Public Affairs Conference, Toronto, June 11, 1996.
- “Helms-Burton and its Progeny: The March of Folly Continues, American Conference Institute’s Conference entitled “Beyond Cuba, U.S. International Business Restrictions...Compliance with LIBERTAD and Other Controls,” Washington, D.C., June 24, 1996 and Canadian Institute’s Conference entitled “After Cuba, U. S. Extraterritorial Restrictions on Canadian Business,” Toronto, June 26, 1996.
- “NAFTA Revisited - Dispute Resolution Under the NAFTA: an Update,” Case Western Reserve University School of Law, Cleveland, Ohio, April 18-20, 1997.
- “The challenge of a Charter Challenge,” Canadian Bar Association’s Administrative Law Section, Conference entitled The Well Functioning Tribunal,” Hull, November 14, 1997.
- “Dispute Settlement after 10 Years of Free Trade,” McGill Institute for the Study of Canada Conference entitled “Free Trade @ Ten, NAFTA @ 5,” Montréal, June 4-5, 1999.
- “Antidumping and Countervail for Agriculture Products: Where we are and where we are going,” Seminar presented by the Ontario Ministry of Agriculture, Food and Rural Affairs, Guelph, November 19, 1999.
- Inter-American Bar Association - XXXVIth Conference of the FIA/IABA, panellist on the CBA/IABA International Workshop on MDP/s Panama, June 2000.

Lawyer Profile

SIMON POTTER

- “Dispute Settlement: A Practitioner’s Perspective,” Free Trade Risks & Rewards, Published by McGill-Queen’s University Press (2000).
- “The Balancing Act,” Canadian Bar Association Annual Fall Conference on Competition Law, Ottawa, September 21-22, 2000.
- Remarks to The Canadian Association of provincial Court Judges on Behalf of the Canadian Bar Association, Ottawa, September 23, 2000.
- “The Legal Profession, Accountants and multi-Disciplinary Practices: Cause for Concern or Celebration,” Conference of the Law Society of Newfoundland and a Symposium in honour of Chief Justice T. Alexander Hickman, St. John’s, November 17, 2000.
- “Current and Future Surprises in Arbitration and Mediation,” The Canadian Bar Association Conference of the National Alternative Dispute Resolution Section and the Continuing Legal Education Committee, Ottawa, December 1-2, 2000.
- “Current and Future Surprises in Arbitration and Mediation,” The Canadian Bar Association New Brunswick Mid-Winter Meeting, Saint-John, February 3, 2001.
- “The Softwood Lumber Saga: Where To Now?” Co-Speakers: Doug Waddell and Gary Horlick. The Canadian Bar Association, Conference entitled: “The Practice of International Law in the 21st Century: It’s Everybody’s Business” Ottawa, May 3-4, 2001.
- “Non-Governmental Organizations and the World Trade Organization,” (co-authored with Brenda C. Swick), American Bar Association Annual Meeting. Chicago, August 2-3, 2001.
- “Les traités internationaux et leur importance pour l’avocat moderne,” Association internationale des jeunes avocats. Montreal, August 17, 2001.
- “The Lost Art of Cross-examination, and its Revival,” The Lord Reading Society, Montréal, September 13, 2001.
- Speech at the Centre for International Sustainable Development Law Conference in Montréal, on June 13, 2002.
- “Remembering Why We Have Courts At All,” American College of Trial Lawyers’ Spring Meeting, Boca Raton, March 21, 2003.
- “Barrister Immunity” and “Defamation Law in Canada,” 13th Commonwealth Law Conference, Melbourne, April 13-17, 2003.
- “Key Events and Issues in Canada-U.S. Trade,” American Bar Association, 2003 Spring Meeting in Washington, May 7-9, 2003.

Lawyer Profile

SIMON POTTER

- “Get Involved: It’s Your World,” John Abbott College, Montreal, Convocation Address, June 12, 2003.
- “The Role of Bar Associations in Ensuring the Rule of Law,” inter-American Bar Association Conference: “Changing Law and Free Trade in the Americas” June 20, 2003.
- “Unpopular Clients and Cases,” Canadian Bar Association, Canadian Legal Conference and Trade Show, Montréal, August 18, 2003.
- “International Trade Horizons for Canada,” Association of Canadian General Counsel’s Fall Meeting Fairmont Château Laurier, October 1-4, 2003.
- “The Importance of Ethics for Practitioners of Military Law,” JAG Continuing Education Workshop, Ottawa, October 24, 2003.
- “The Assessment of Dispute Resolution under Chapter 19 of the NAFTA,” Conference of the World Trade Centre on the 10 years of the NAFTA, Montreal, March 10, 2004.
- “NAFTA Dispute Settlement Mechanisms: How is it doing and where is it headed - A Canadian Perspective,” The Greater Cleveland International Lawyers Group, Cleveland, April 20, 2004.
- “Chapter 19 of the NAFTA: An Emerging Canadian View,” The Canadian-American Business Council, Washington, D.C., June 16, 2004.
- “The Role of Bar Associations in Ensuring the Rule of Law,” University of Florida, Fifth Annual Conference, Legal and Policy Issues in the Americas, Costa Rica, June 25, 2004.
- “Principal NAFTA and WTO cases involving Mexico, and the conclusions we can draw,” Canadian Bar Association, Québec Branch, Montréal, September 28, 2004.
- “Sweet & Sour Tastes of NAFTA: What can be done to make things better?” American Bar Association, Section of International Law Meeting, Houston, October 14, 2004.
- “Security and Trade,” Conference of the International Bar Association, Auckland, October 24-29, 2004.
- “La responsabilité de l’importateur et du courtier,” The Canadian Institute, 9th Annual Conference on Customs, January 25, 2005, Montréal.
- Remarks to the Sub-Committee on International Trade: Trade Disputes and Investment, Canada - U.S. Trade Issues - NAFTA Chapter 19, Ottawa, March 8, 2005.
- “Closing Argument,” a lecture given to the McGill University Faculty of Law Students, March 14, 2005.
- “Direct and Cross-Examination,” Advocacy Skills Conference by the Prince Edward Island Branch of the Canadian Bar Association Brudnell, Prince Edward Island, October 14, 2005.

Lawyer Profile

SIMON POTTER

- Remarks to the Sub-Committee on International Trade: Trade Disputes and Investment, Canada - U.S. Trade Issues - NAFTA Chapter 19, Ottawa, March 8, 2005.
- "Recent Developments and Future Trends in Arbitration," The Canadian Bar Association, Section of International Commercial Arbitration, Vancouver, June 28, 2005
- Conference on International Arbitration in China at the Canadian Bar Association Annual Legal Conference and EXPO in Vancouver, as part of the seminar entitled: "China: Essentials for Canadian Lawyers," August 15, 2005.
- "International Trade Issues Related to Technology: Technology and Intellectual Property in Recent/Current Bilateral and Multilateral Trade Negotiations," Canada-United States Law Institute Annual Conference, Cleveland, April 8, 2006.
- Remarks to the Standing Committee on International Trade on the Softwood Lumber Agreement proposal of July 1, 2006, Ottawa, July 31, 2006.
- "Why did Canada settle? The Softwood Lumber Agreement. Reasons to Sign It, and Keep It, From the Perspective of Canada", American Bar Association, Section of International Law conference, Washington, May 3, 2007.
- "Le litige important et son budget" (Important Litigation and its Budget, conference given in French) Conference of the Canadian Corporate Counsel Association Montréal, May 24, 2007.
- "Trade Law Aspects of Transportation", conference of the Canadian Transport Lawyers Association, Montréal, September 28, 2007.
- "Major Recent Developments of Note in Canadian Courts and Legislatures" Greater Cleveland International Lawyers Group, November 13, 2007.
- "La gestion du risque juridique" Conference by the Association of Corporate Counsel in collaboration with McCarthy Tétrault Portion of Simon V. Potter entitled "Le risque du litige et sa gestion" Montréal, November 29, 2007.
- "Canada Passes Bill Implementing ICSID Convention - Seen as Important Move to Strengthen Investor Protections", article written by John W. Boscarriol, Alastair McNish, Simon V. Potter, Orlando E. Silva and Brenda C. Swick of McCarthy Tétrault, LLP, first appeared in North American Free Trade & Investment Report, Vol. 18, No. 6, March 31, 2008.
- "Equity Holdings in Law Firms: The Canadian Perspective", American Bar Association, Section of International Law, New York, April 3, 2008.

Lawyer Profile

SIMON POTTER

- "Recours collectifs à portée nationale et nord-américaine : Défis pratiques et procéduraux" The Canadian Bar Association - Québec Branch, September 24, 2008