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Matt Milne-Smith Speaks to Lexpert on Slowdown in Securities Class Actions

In an article published in the Lexpert Special Edition – *Canada's Leading Litigation Lawyers*, Davies partner [Matt Milne-Smith](#) discusses the impact of the Supreme Court of Canada's 2015 trilogy of decisions interpreting the leave standard for secondary market securities class action filings in Canada.

"One plaintiff's lawyer I was facing called it nothing but a speed bump," Matt says. "But it was a speed bump that wrecked his case."

Matt believes that the Supreme Court's decision has properly recognized the inherent challenges and complexities that underlie public company disclosure. "What they've come to see is that what might appear to be a straightforward case of misrepresentation can turn out to be a complex case of business executives exercising their best judgment in trying circumstances," he explains. "Sometimes they'll get it right and sometimes they'll get it wrong, but our courts have recognized that merely getting it wrong doesn't merit a multi-million-dollar class action based on tortious conduct."

The good news for the business community is that Ontario's secondary market liability regime contains meaningful protections for issuers. "There was a perception for some period of time before and after the enactment of the legislation that securities class actions might be low-hanging fruit for plaintiffs' lawyers," Matt says. "Practice has proven that this is not in fact the case."