



firm profile

McMillan is a modern and ambitious business law firm serving public, private and not-for-profit clients across key industries in Canada, the United States and internationally. With recognized expertise and acknowledged leadership in major business sectors, we provide solutions-oriented legal advice through our offices in Vancouver, Calgary, Toronto, Ottawa, Montréal and Hong Kong. Our firm values – respect, teamwork, commitment, client service and professional excellence – are at the heart of McMillan's commitment to serve our clients, our local communities and the legal profession. For more information, please visit our website at www.mcmillan.ca.

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construction litigation

overview

Construction is a highly complex industry with myriad stakeholders involved in every project—from financial institutions to developers to tenants. With so many interested parties involved and millions of dollars on the line, the potential for disputes over costs, timelines and quality is ever-present.

Our litigators regularly collaborate with colleagues in McMillan's Commercial Real Estate Group, which includes one of the largest construction law teams in Canada. Working together, we understand the entire construction process, from the RFP and tender process through completion and turnover. Our lawyers are deeply experienced in project financing, performance bonding, insurance and related issues, which enables us to blend industry-specific knowledge with our unmatched litigation skills. Our litigators are diligent and tenacious, squarely focused on defending our construction industry clients' commercial interests before the courts.

Our clients include financial institutions, land owners, builders, municipalities, developers, engineering firms, construction companies, and suppliers. Our lawyers assist clients in litigating defect, lien, trust, delay, warranty, and other claims. We also advance their interests through arbitrations and hard fought litigation on matters including tendering, professional negligence and environmental law.

McMillan professionals help clients lead by:

- Advising on design and construction contracts for large commercial projects
- Arbitrating and litigating defect, lien, delay, performance bonds, warranty, breach of trust, and collection claims
- Advising on financing and security enforcement matters
- Defending parties against claims arising from RFP processes
- Litigating priority disputes with mortgagees and other creditors

representative transactions

- Acted for Her Majesty the Queen in Right of the Attorney General of Canada with respect to four separate construction delay claims in excess of \$30 million arising from the renovations to the Library of Canada, Parliament Hill
- Counsel to the successful contractor-led consortium in connection with each of the following:
 - The building and financing of the Hamilton Health Sciences Corporation Henderson General Hospital



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- The building and financing of the Bluewater Health Capital Redevelopment Project in Sarnia, Ontario
- The building and financing of the Rouge Valley Health System Project; and
- the London Health Redevelopment Project
- Acted for Brampton Sports Centre Inc. in connection with the development and construction of a 6,000-seat arena located at the junction of Highways 407 and 410
- Advised in connection with design and construction contracts for large commercial projects, including:
 - The owner/developer with respect to the construction of a \$120 million warehouse facility
 - Ladbroke Group PLC with respect to design and construction contracts with respect to the Airport Hilton Hotel
 - Wellesley Hospital with respect to design and construction contracts for expansion projects from 1992 to 1995
- Provided advice in support of the financing for following commercial real estate projects:
 - Yorkdale Shopping Centre, Toronto
 - 40 public private partnerships worth more than \$10 billion
 - Rideau Centre, Ottawa
 - Yonge Sheppard Centre, Toronto
- Advisors to The Hi-Rise Group for the last seven years in connection with design, development and construction of condominiums and commercial projects valued at \$500 million
- Represented a mine owner in resolving multiple lien claims and contract claims in relation to construction of mill and related facilities in amounts exceeding \$50 million
- Defended an Ontario municipality against a \$50 million claim arising out of an RFP to build a multi-purpose public facility
- Acted for a Canadian-based, international structural steel fabricator with respect to a series of claims arising from the construction of Terminal 3 at Pearson International Airport as well as the Canadian Opera House
- Acted for an international engineering firm with respect to a multimillion dollar claim arising from the repair of the Rainbow Bridge owned by the Niagara Falls Bridge Commission



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- Acted for the owner of several goldmines in Timmins, Ontario and Fort Nixon, Alaska, with respect to construction claims in excess of \$18 million
- Represented an international food manufacturer with respect to a number of claims relating to the construction of its North American plant
- Negotiated the terms of a land acquisition and design-build contract for a \$15 million factory
- Acted for the owner with respect to the erection of a new bio-oil plant and ensuing litigation with the erection contractor
- Acted for an international, schedule "A" bank with respect to allegations of breach of the trust provisions of the Construction Lien Act in relation to the accounts of an international construction company covering 52 projects across North America
- Represented a national insurance company with respect to a claim arising from the failure of the building cladding system following the construction of its 12 story head office
- Acted for an international industrial tank supplier with respect to claims relating to the supply and installation of outdoor water storage tanks at a power plant
- Represented the Owner of a 38,000 square foot mansion with respect to the termination of the general contractor and defending the resulting 23 lien claims filed, with an aggregate value of \$5.7 million
- Acted for a number of occasions for different parties with respect to plant expansions at the GM Plant in Oshawa, the Ford Plant in Oakville and the Chrysler Plant in Brampton
- Representation of a national surety bonding company in the defence of a claim by an owner under a performance bond, where the grounds of defence involved material variation of the underlying construction contract, and insufficient holdbacks being retained by the owner