



## 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](http://www.mcmillan.ca).

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## rail

### overview

Procurement, supply and delivery of services in the rail business in Canada presents an equally challenging task, with few suppliers and significant demand. Businesses that ship by rail require significant commercial, financial and legal support in an environment that often lacks competitive alternatives. Also, as the long term demand for commodities and raw materials increases, rail infrastructure and operations investment around the world is expected to rise. The opportunities are great, but so are the challenges.

McMillan's Transportation Industry Group has decades of experience in the rail shipping industry. We are frequently called upon by other law firms, shippers, shortline railways, rail equipment manufacturers and lessors, governments and carriers in Canada and the United States to provide expert legal counsel. Our strong relationships with industry participants, third party service providers and consultants in the fields of economics, costing, safety and environmental regulation, and other fields, uniquely qualify us to provide a broad spectrum of services to the transportation and distribution sector.

Our lawyers frequently assist parties across North America. We also maintain strong relationships with industry participants, regulators and consultants to both inform industry and regulators and to ensure we understand the dynamics of the industry and where it is going.

McMillan professionals help clients lead by :

- Advising on commercial distribution and logistics matters, including rates, level of service, risk, competitive and strategic analyses
- Dispute resolution in all facets of rail shipping, logistics and regulatory matters
- Managing distribution chain projects, ranging from small or short run outsourced matters to large, long-term and multi-disciplinary engagements
- Advising on safety, environmental and rail regulatory compliance, and transportation of dangerous goods
- Advising on the development, expansion, purchase and sale of railways, railway equipment, transportation infrastructure, terminal and related businesses and facilities, including government-owned facilities

### representative transactions

- Fortress Transportation and Infrastructure Investors LLC (NYSE:FTAI) in connection with the sale of Central Maine &



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- Québec Railway to Canadian Pacific Railway Company (November 21, 2019; terms not disclosed)
- Teck Coal Limited (NYSE: TECK; TSX: TECK.B) in connection with a five year rail agreement for shipping of steelmaking coal from Teck's four B.C. operations from Kamloops to Neptune Terminals and other west coast ports (December 4, 2019; terms not disclosed)
- Canpotex Limited and related entities in rail transportation services with Canadian National Railway Company
- Canpotex Limited and related entities in rail transportation services with Canadian Pacific Railway Company
- Canpotex Limited and related entities in rail transportation services with Union Pacific Railroad Company
- Mining Association of Canada, before the Standing Committee on Transport, Infrastructure and Communities in connection with Bill C-52 (Service Level Agreements) (2013)
- Teck Resources Limited, before the Canadian Transportation Agency in connection with its Consultation on Amendments to the Uniform Classification of Accounts (2013) and its Cost of Capital Review (2010)
- Teck Resources Limited, before the Federal Rail Freight Service Review, Transport Canada (2008-2013)
- Teck Resources Limited, the Western Grain Elevator Association and the Canadian Canola Growers Association before the Canadian Transportation Agency in connection with its Consultation on Capital Structure and Cost of Capital Methodology (2016)
- Teck Resources Limited, terminal services agreement with Westshore Terminals Limited (2010)
- Teck Resources Limited, historic ten year rail freight agreement with Canadian Pacific Railway Company (2010)
- Canadian Pacific Railway Company v. Teck Coal Limited (defence of CP's application for leave to appeal decision of Canadian Transportation Agency to refer matter to final offer arbitration; application denied, 2009)
- Teck Coal Limited v. Canadian Pacific Railway Company, final offer arbitration (May 2009)
- Teck Coal Limited v. Canadian Pacific Railway Company, final offer arbitration (June 2009)
- Elk Valley Coal Corporation (before the Competition Policy Review Panel, 2008)
- Canadian National Railway Company and The Burlington Northern Santa Fe Railway Company v. Normerica Inc.



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(Federal Court, demurrage claims and service counterclaims, 2006)

- Normerica Inc. v. Canadian National Railway Company and The Burlington Northern Santa Fe Railway Company (Canadian Transportation Agency, level of service complaint, 2006)
- TransLink (Greater Vancouver Transportation Authority) re application in support of City of Port Coquitlam's Coast Meridian Overpass over Canadian Pacific Railway Company's Coquitlam Yard (2006)
- Seaspan International v. The Burlington Northern Santa Fe Railway Company (Canadian Transportation Agency, abandonment opposition, 2005)
- West Coast Express (commuter rail) dispute and negotiations with Canadian Pacific Railway Company (2005)
- Canadian National Railway Company v. Western Canadian Coal Corp. (Final offer arbitration and application for judicial review, contesting operability of final offer arbitration provisions of Canada Transportation Act, 2004-2005)
- Elk Valley Coal Partnership et al. v. Canadian Pacific Railway Company (final offer arbitration and related proceedings, 2004)
- Canfor Corporation, Slocan Forest Products, Weldwood of Canada and West Fraser Timber (sale of the operations of British Columbia Railway to Canadian National Railway Company, 2003-2004)
- Teck Corporation, Weldwood of Canada, West Fraser Timber (before the Canada Transportation Act Review Panel, Transport Canada, 2000)
- Weldwood of Canada, West Fraser Timber and Weyerhaeuser (Canada Transportation Act – legislative review of the Canada Transportation Act, 1999)