

## Michael Mestinsek

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### Law Practice

Michael Mestinsek is a partner and practice group leader for commercial litigation in Stikeman Elliott's Calgary office. Mr. Mestinsek represents domestic and international clients in all areas of commercial litigation and dispute resolution, including matters involving oil and gas, corporate governance and oppression, product liability, class actions, securities, commercial real estate, insurance, professional negligence and catastrophic loss.

### Professional Activities

Mr. Mestinsek is a member of the Calgary, Canadian and American Bar Associations, the Professional Liability Underwriters Society (PLUS), the Defence Research Institute (DRI) and the Kappa Alpha Literary Society Alumni Association. He is a member of the board for Helios Corporation and the John Hart Hunter Educational Foundation (Canada and U.S.).

He is a frequent lecturer at the Bar Admission Course and for the Legal Education Society of Alberta (LESA) and was appointed to the Board of Directors of LESA in September, 2010. He has given numerous industry presentations and authored articles in the areas of commercial litigation, insurance law, professional liability, corporate governance, shareholders rights and securities litigation.

### Publications & Conferences

Mr. Mestinsek has written numerous papers including:

- Paper, "Stock Option Manipulation, Testing the Waters in Alberta – a Guide to an Effective Response", Stikeman Elliott LLP (May, 2010);
- Paper, "An Introduction to Production and Discovery", LESA Civil Litigation Boot Camp (2009);
- Case comment, The Lawyers Weekly, "The Duty to Defend – It all starts with the pleadings" (2006);
- Paper, Convergence 2005, "What's Good for the Directors is Good for you; New Thinking for Information Managers in the SOX Age" (2005);
- Contract Law Primer, Industry Seminar Series "From Pater to Courtroom or Not" (2004);
- Paper, The Canadian Institute, "Just v. The Queen, Brown v. the Queen – Government Liability in Tort" (1996).

Mr. Mestinsek's recent speaking engagements include:

- Federated Press, "Commercial Contract Dispute Resolution" (October 2011);
- CBA Corporate Council Section South, "It's Our Party and You're Not Invited: Third Party Beneficiaries in Contract Law" (December, 2010);
- LESA, "The New Rules of Court – You Will be Ready", Instructor (September, 2010);
- Stikeman Elliott LLP, "Securities Litigation: Recent Developments and Future Considerations" (May, 2010);
- LESA, Civil Litigation Bootcamp, "An Introduction to Production and Discovery" (February 2009);
- Federated Press, Advanced Securities Compliance "Practical Points for Effecting Civil Litigation and Prevailing" (November 2008);
- Stikeman Elliott LLP, "Arbitration in Alberta – the Good, the Bad and the Ugly" (October 2008);
- Stikeman Elliott LLP, "E-Discovery and Document Management" (June 2008);
- Stikeman Elliott LLP, "The Law of Privilege" (April 2008);
- Federated Press, Advanced Securities Compliance "Practical Points for Effecting Civil Litigation and Prevailing" (September 2007);
- Convergence 2005, "What's Good for the Directors is Good for You; New Thinking for Information Managers in the SOX Age" (2005);
- Contract Law Primer, Industry Seminar Series "From Pater to Courtroom or Not" (2004);
- Alberta Land Surveyors, "Encon Loss Prevention Seminar" (2004);
- Calgary, Alberta, Bar Admission Course, Civil Procedure (2001, 1999, 1997);
- The Canadian Institute Construction Super Conference, "Reducing Workplace Injuries Benefits Everyone: The Alberta Experience" (1996);

## **Representative Work**

- Lead counsel to a major North American oil and gas producer in litigation involving ownership of coal bed methane on split title freehold lands;
- Lead counsel to an international steel distributor in litigation involving alleged pipe defects in a major oil sands project;
- Counsel to a major Canadian airline in proceedings to recover possession of commercial aircraft under sub-lease agreements;
- Lead counsel to a large multi-national oil and gas corporation in litigation involving alleged stock option manipulation;
- Counsel to a leading oil and gas services company in litigation involving alleged backdating of stock options;
- Counsel to an international tobacco manufacturer in class action litigation regarding tobacco use;
- Lead counsel for a Calgary property developer in litigation involving the ownership and operation of a large commercial real estate complex;
- Lead counsel to a national commercial property manager in litigation and arbitration involving substantial defects in a major Calgary apartment and condominium complex;
- Counsel for numerous corporations, trusts and other entities in proceedings involving plans of arrangement under the ABCA and CBCA;
- Counsel to numerous corporations in relation to proceedings under the Companies Creditors Arrangement Act;
- Lead counsel for a major Alberta oil and gas producer in litigation involving the provision of watering services for frac operations;
- Lead counsel to an oil and gas services company in litigation before the Alberta Securities Commission regarding a hostile takeover bid;

- Counsel to Class B shareholders of a major Canadian publishing company in litigation involving alleged oppressive conduct and share valuation issues;
- Lead counsel to a consortium of insurers and oil and gas companies in litigation involving an explosion and fire at a natural gas compression and liquids processing facility;
- Counsel to an investment corporation in litigation involving a contested proxy contest at an annual general meeting of a major oil and gas services firm;
- Lead counsel to a Calgary-based brokerage firm in arbitration involving alleged unauthorized trading;
- Lead counsel to a large group of investors in litigation surrounding the purchase of tax shelter condominium properties in a foreign jurisdiction;
- Counsel to an accounting and audit services firm in litigation involving allegations of negligent misrepresentation in financial statements;
- Lead counsel to an architectural firm and major professional liability insurer in litigation involving the design and construction of a resort facility in Canmore, Alberta;
- Lead counsel to the leading North American manufacturer of prosthetic medical devices in litigation involving alleged failure of a prosthetic knee device.

In his professional liability practice, Mr. Mestinsek has represented accountants, financial advisors, engineers and architects, surveyors, brokers, lawyers and directors and officers in respect of professional and directors' and officers' liability matters.

Mr. Mestinsek has appeared in all levels of Alberta courts, before various administrative tribunals including the Alberta Securities Commission, the Investment Dealers Association and in numerous private mediation and arbitration proceedings.

### **Education**

University of Alberta (LL.B. 1993, Bachelor of Arts in Economics, 1990).

### **Background**

Mr. Mestinsek attended the University of Alberta until 1993 whereupon he moved to Calgary and articulated to The Honourable Associate Chief Justice Neil C. Wittmann.

### **Bar Admission**

Alberta, 1994