



Michael E. Mestinsek

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Michael is Head of the Advocacy Group in the Calgary office and is a member of the Partnership Board. He represents numerous domestic and international clients in all major areas of commercial litigation, arbitration and alternative dispute resolution.

Michael's dispute resolution philosophy is predicated on the principle that every dispute has unique characteristics and exigencies. Efficient and effective dispute resolution requires a flexible and business outcome oriented approach. His primary focus is to provide decisive advice his clients can trust when these disputes arise.

Michael regularly advises clients on litigation matters involving oil and gas, corporate governance and shareholder activism, product liability, construction, directors and officers liability, professional liability, securities, commercial real estate and insurance. Michael is recognized for his particular expertise in the areas of directors and officers liability, upstream and midstream oil and gas litigation involving pipelines and processing facilities, breach of confidence as well as product liability claims involving medical devices. He has appeared in all levels of Alberta courts, before various administrative tribunals, including the Alberta Securities Commission, and in numerous private mediation and arbitration proceedings.

Accolades

- *Chambers Canada 2020* as a leading lawyer in Litigation: General Commercial (Alberta).
- *Chambers Global 2016* as a leading lawyer in Dispute Resolution.
- *Benchmark Canada: The Definitive Guide to Canada's Leading Litigation Firms and Attorneys 2019* in Arbitration, Energy and Natural Resources, General Commercial, Insurance, Product Liability and Securities.
- *Best Lawyers in Canada 2020* in Alternative Dispute Resolution, Corporate and Commercial Litigation, Director and Officer Liability Practice and Product Liability Law.

Representative Work

- Peyto Exploration and Development Corp., and certain of its commercial general liability insurers, in its C\$20M claim against Platinum Pipefitting Inc. and Fron Fabrication & Welding Ltd.
- Bellatrix Exploration Ltd. in a successful summary trial against Bonavista Energy Corporation relating to a dispute arising under the interpretation of a gas handling agreement and the *Limitations Act*.

- BP Canada in its C\$1B litigation against Aux Sable Canada relating to a twenty year product supply agreement for natural gas and NGLs transported on the Alliance Pipeline.
- A world leading international supplier and manufacturer of industrial water treatment systems in its C\$500M litigation with K+S Potash Canada General Partnership and Aecon Mining Construction Services surrounding the alleged failure of several crystallizer vessels manufactured by Veolia and installed at the K+S mine facility.
- British American Tobacco PLC in the C\$10B action being brought by the Province of Alberta for recoupment of tobacco related health care costs pursuant to the Alberta Crown's *Right of Recovery Act*.
- BP Canada in its C\$100M litigation against Alliance Canada Marketing, Enbridge and Veresen in respect of a twenty year capacity utilization agreement for the Alliance Pipeline.
- Bellatrix Exploration in its litigation with Tidewater Midstream and Infrastructure Ltd. regarding a dispute over NGL and gas handling and processing at a Tidewater facility in northern Alberta.
- Occidental Petroleum Corp. in its dispute with Canadian Natural Resources Ltd. regarding allocations of costs arising from remediation of several contaminated drilling sites on certain joint venture lands.
- Catapult Environmental Inc. in its litigation with Dragos regarding the design and construction of a waste water disposal facility in northern Alberta.
- ConocoPhillips Canada in its C\$30M litigation involving design and construction of road culverts and related earthworks for the Surmont Oil Sands Project.
- Bellatrix Exploration in litigation with Yangarra Resources regarding construction, ownership and operation of the Baptiste Lake 6-21 processing facility and related wells and pipelines.
- Exchanger Industries in litigation with CNRL surrounding the design, manufacture and supply of industrial heat exchangers for use in the Kirby Oil Sands Project.
- ARC Financial Corp. in the successful dismissal of litigation regarding technology relating to the design and manufacture of flexible composite pipe for the oil and gas industry.
- Covidien Canada (Medtronic) in litigation involving the design and manufacture of its DST Stapler, which is used in Canada and globally in surgery for the treatment of advanced colon cancers.
- GWL Realty Corp. in litigation involving the failure of industrial heat exchanger units at the Gulf Canada Square building in Calgary, Alberta.
- Mariani Metals in its C\$20M litigation with Centre Street Trust involving the delays and other claims relating to the construction of The Bow building in Calgary.
- Galderma Canada and Galderma US in relation to litigation involving certain skin care products utilized widely by dermatologists.
- WSP Global in litigation with Global Raymac relating to allegations of breach of fiduciary duty and breach of confidence arising from WSP's acquisition of Focus Surveys.
- XL/Catlin in relation to the defence of professional liability and related claims advanced against architects and engineers.

- Devon Canada Corp. in litigation involving ownership of coal bed methane on split title freehold lands.
- Korea Deposit Insurance Corporation in its recovery of over C\$29M in the receivership of 3 Eau Claire Developments Inc.
- bcIMC in litigation and arbitration involving substantial defects in a major Calgary apartment and condominium complex.
- Air Canada in proceedings to recover possession of commercial aircraft under sub-lease agreements.
- Several domestic and international oil and gas corporations in litigation involving alleged stock option manipulation.
- Numerous corporations, trusts and other entities in proceedings involving plans of arrangement under the ABCA and CBCA, as well as proceedings under the BIA and CCAA.

Publications

- “Crude by Rail”, CBA, November 2014.
- “Improving the Productivity of Legal Services – Lower Fees and Better Outcomes”, Stikeman Elliott LLP, October 2014.
- “Alternative Dispute Resolution in Commercial Contracts”, Federated Press, October 2013 & 2014.

Legal Posts

The following posts are available on Stikeman.com:

- [Absorptive Mergers Gain a Foothold in Canadian Plans of Arrangement](#)

Speaking Engagements

- “Protecting Confidential Information: Navigating the Minefield – NDAs and Breach of Confidence”, Stikeman Elliott and the Association of Corporate Counsel Alberta, April 2018.
- “Cross Examination – Strategies for Success”, Program Chair and Instructor, The Advocates Society, November 2014.

Professional Activities

Michael 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 trustee of the John Hart Hunter Educational Foundation (Canada and US).

Michael is a frequent lecturer on matters pertaining to advocacy and dispute resolution for the Advocates Society and the Legal Education Society of Alberta (LESA). He has given numerous industry presentations and authored several articles relating to commercial litigation, alternative dispute resolution and advocacy.

Education

University of Alberta (LL.B. 1993)
University of Alberta (B.A. 1990)

Bar Admission

Alberta, 1994