

Aboriginal Law

- *Montana Band v. Canada* [2006] F.C. 334 (Successful 100+ day trial dealing with entitlement of Indian band to block of land which has valuable oil and gas reserves on it)

Arbitration

- *EnSCO Inc. v. MOEE* (Successful recovery after 25+ day arbitration of \$5,400,000 by contractor in relation to disputed extras/delay claims in relation to first cleanup of a PCB contaminated site in Canada)
- *Canadian Alcohol v. Marsh & McLennan* (Arbitration before R.E. Holland). (Successful defence of multi-million business interruption claim involving outage at large processing plant)
- Regularly acting (in conjunction with our labour department) in representing many NHL teams in salary arbitrations with their players.
- ICC arbitrations involving process engineering, construction and trade related questions.

Class Proceedings

- *DuMoulin v. Ontario* [2006] O.R. No. 3961 (Successful defence denying certification of "toxic mould" claim in relation to Newmarket court house)
- *Haskett v. Equifax Canada Inc.* [2001] O.J. No 4949 rev'd in part (2003) 63 OLR. (2d) 577 (C.A.) (Action against credit reporting agency)
- *Mondor v. Fisherman* [2002] O.J. No. 185. (Representation of securities dealer in alleged international securities fraud related to YBM Magnex)
- *Logan v. Harper* [2001] O.J. No. 3744 (Class Proceeding involving allegedly defective surgical implants)
- *Despault v. King West Village* (2001) 10 C.P.C. (5th) 89 (Successful certification of class proceeding against condominium developer)
- *Samos Investments v. Pattison et al* (2000) 190 D.L.R. (4th) 448 (B.C.C.A.) (class proceeding involving alleged improper related party transactions taken as part of a privatisation one of the largest coal port facility in Canada)
- *Rosedale Motors Inc. v. PetroCanada Inc.* (1998) 42 O.R. (3d) 776, rev'd [2001] O.J. No. 5368 (Class Proceeding by franchisees)

Competition Law/Economic Torts

- *Air Canada v. Alberta* [2005] O.R. No. 5512 (Representation of individual in claim of alleged business espionage)
- *Qatar (Monetary Agency) v. Himadeh* (Ont. Ct., January 5, 1996) (Successful defence at trial and appeal of action against former advisor to the Qatar Minister of Finance and Petroleum alleging misappropriation of over \$6,000,000. Leave to appeal denied to Supreme Court of Canada, 104 O.A.C. 239)
- *McKinlay Transport v. MTIRB* (1996) C.L.L.C. 210-021 (Successful defence after 30 day trial of \$30,000,000 conspiracy action involving a claim against a number of individuals in the trucking industry)

Constitutional/Administrative Law

- *Christie v. British Columbia* [2005] B.C.J. No. 2745 (B.C.C.A.) (Successful

- application striking down an unconstitutional B.C. sales tax on lawyer's fees)
- *Bennett Environmental Inc. v. Canada (Minister of the Environment)* [2004] F.C.J. No. 1393 (Quashing of Minister's decision to require environmental assessment with the result that multi-million dollar client investment in project was preserved)
- *Byl v. Ontario* (2003) 67 O.R. (3d) 588 and [2004] O.J. No. 646 (Quashing of government decision to cease funding to a social agency)
- *Carter v. Alberta* [2002] A.J. No. 1543 (C.A.) (Successful representation of Government of Alberta upholding its ability to indemnify cabinet minister from libel claim)
- *Ontario English Catholic Teachers Assoc. v. Ontario* (Attorney General) [2001] S.C.R. 470 (Constitutionality of funding formula for separate school system)
- *ExpressVu Inc. et al. v. NII Norsat International Inc. et al.* (1997) 134 F.T.R. 264; [1998] 1 F.C. 245 (F.C.T.D.), (1997) 222 N.R. 213; 141 F.T.R. 240 (note) (F.C.A.)
- *Ontario Home Builder Ass'n v. York Region Board of Education* [1996] 2 S.C.R. 929 (S.C.C.) (Successful upholding of constitutionality of educational levies by school board client)
- *Québec (Procureur general) v. Téléphone Guèvremont Inc.* (1994) 112 D.L.R. (4th) 127, 168 N.R. 7 (S.C.C.)

Contract

- *Angoss II Partnership v. Trifox Inc.* (1998) 37 B.L.R. 256 (Claim/Counterclaim involving software licence and quality of software supplied under licence. Miller Thomson LLP's client was awarded \$4,400,000 in damages plus interest.)
- *Texaco v. PetroCanada et al* [1998] O.J. No. 6377 (Defence in action alleging improper interference in distributorship relationship. Damage claim in the tens to hundreds of million of dollars. Action dismissed in total with costs after 60+ day trial by Mr. Justice McDonald in June of 1998)
- *Bakorp Management v. Pepsi-Cola Canada and Crown, Cork & Seal Canada Ltd.* [1994] O.J. No. 873 (Summary judgment dismissal of \$200,000,000 claim against can manufacturer relating to operation and sale of Pepsi-Cola bottler for Southern Ontario)
- *Opron Construction v. Alberta* [1994] A.J. No. 224 (14 month trial leading to precedent setting decision as obligation of good faith on performance of contracts)
- *McNicol v. Insurance Unlimited (Calgary) et al* (1993) 5 Alta. L.R. (3d) 159 (QB) (Successful denial of coverage on behalf of multiple insurers pursuant to a builder risk claim involving a multi-million dollar construction claim. This included the successful defence of a third party claim advanced by the broker against the insurers)

Environmental

- *Neste Canada v. Reichhold* [2005] (35 day trial - recovery of \$5.93 million in case involving alleged soil and water contamination at a former formaldehyde plant)
- *862590 Ontario v. PetroCanada* [2000] O.J. No.984 (dismissal of contaminated land claim)

Insolvency and Banking Law

- *Re Air Canada* (2003) 45 C.B.R. (4th) 13 (Scope of set-off rights in a CCAA)

restructuring)

- *Re AT&T Canada Inc* [2003] O.J. No. 5086 (Equitable subordination of shareholder related claims in an insolvency)
- *Re Air Canada* [2003] O.J. No. 5525 (Impact of CCAA filing on letters of credit totalling \$21 million given as security for residual value of aircraft).
- *Isgard International Corp. v. Citibank Canada* (1997) 46 C.B.R. 210 (Successful defence of financial institution in improvident sale claim - approximately \$10,000,000 claimed)
- *Bank of Nova Scotia v. Freure Village* (1996) 40 C.B.R. (3d) 274. (Successful enforcement of bank security through court appointed receivership - \$13,000,000 recovered)
- *Montréal Trust v. Birmingham Lodge* (1995) 24 O.R. (3d) 97 (C.A.) (Successful defence on guarantee) See also the profile of our [Insolvency and Restructuring](#) department on our website

Oil and Gas

- *Murphy Oil v. Predator* [2006] A.J. No. 207 (C.A.) and [2006] A.J. No. 1156 (Successful summary judgment - dismissing counterclaim in action involving a major natural gas development and recovery of \$27 million)
- *Petrowest Terminals Corp. v. Imperial Oil Limited et al* (1998) Alberta (Successful extrication of a third party in the context of an oil storage loss exceeding \$1 million)
- *Suncor Canada Ltd. v. Phillips Cables et al* (1993) (Alta QB) (Successful settlement of a refinery claim exceeding \$121 million arising from a fire loss)
- *Esso Resources Canada et al v. Stearns Catalytic Ltd. et al* (1989) Alta. (Successful resolution of a refinery claim exceeding \$1 billion arising in the context of a major refinery fire)
- *Husky Oil et al v. Lethbridge Iron Works et al* Alta QB. (Successful extrication of a supplier from a complex multi-million dollar litigation involving post tension cable construction issues)

Real Estate/Landlord and Tenant Law

- *1175777 Ontario v. Magna International Inc.* [2006] Can LII 39907 (Successful defence after a 16 day trial of action claiming over \$20 million for breach of an alleged lease)
- *Musqueam Indian Band v. Glass* [2000] 2 S.C.R. 633 (Principles to be applied in fixing rent under long term land lease)
- *Chatham Centre Mall Ltd. v. A&P Properties* (1994) 40 R.P.R. (2d) 124 (and three similar related actions). (Successful defences of claims alleging either that a specific performance covenant existed in a lease or claims that explicit continuous operation covenants should be specifically performed by way of mandatory injunction. All cases dismissed.)

Securities/Investment Dealers

- *British Columbia (Securities Commission) v. Pacific International* (125 day hearing before British Columbia Securities Commission resulting in all claims being dismissed against Miller Thomson client)
- *Hunt v. TD Securities* (2002) 66 O.R. (3d) 481 (C.A.) (successful defense of stockbrv. *Salim Damji* at al (Ont. Sup. Ct, 2002 unreported - appointment of Receiver to investigate and recover sums in excess of \$70 million defrauded from investors)

- *Research Capital v. Nowack* [2000] O.J. No. 3814, aff'd [2002] O.J. No. 4375 (Dismissal of claim of breach of fiduciary duty against investment dealer)
- *Carom v. Bre-X Minerals Ltd.* (1999) 44 O.R. (3d) 173 (Defence of investment dealer in multi-billion dollar proposed class proceeding - certification of proceeding dismissed).
- *G. Farkas Family Trust v. CIBC Wood Gundy* [1999] O.J. No. 4386 dismissal of claim of broker negligence)
- *Primewest Energy Trust v. Orion Energy Trust et al* (1999) Carswell Alta 894 (Alta QB) (Successful establishment of a unit holders rights plan in the context of a hostile takeover)
- *Retrieve Resourcing v. Canaccord Capital Corp.* [1994] B.C.J. No. 1897 (Successful defence after 35 day trial of securities dealer in relation to "market out" clause in best efforts financing)

Shareholder Remedies

- *Fédération des producteurs acéricoles du Québec v. Regroupement pour la commercialisation des produits de l'érable inc.* 2006 SCC 50 (Successful representation leading to wind up of corporation and distribution of \$22 million of assets to client)
- *Confidential Client* - recovery of \$3.5 million on behalf of former senior executive/shareholder of health products company following 2 day mediation before retired judge.
- *Angela Buset v. Buset Apartments* [2003] O.J. No. 3472 (Dismissal of appeal in oppression remedy action involving generational dispute in real estate holding company)
- *Sutherland v. Birks* (2003) 65 O.R. (3d) 812 (C.A.) (Oppression remedy claims between siblings who were heirs to a founder of a prominent Canadian retail chain)
- *Northwest Sports v. Arthur Griffiths and Orca Bay Sports and Entertainment* [1999] B.C.J. No. 637 (defense of proceeding alleging oppression in going private transaction of corporation that owned Vancouver Canuck hockey team)
- *820009 Ontario Limited v. Harold E. Ballard* (1991) 3 B.L.R. (2d) 109 (Shareholder dispute between father and son relating to the holding company that controlled Maple Leaf Gardens and the Toronto Maple Leafs)

Trademark

- *Veuve Clicquot Ponsardin and Les Boutiques Cliquot Ltée.* [2006] 15 C.R. 284 (Successful representation of client in precedent setting Supreme Court of Canada Case)

Trusts, Estates, Pensions and Charities

- *Bloorview Children's Foundation v. Bloorview McMillan Hospital* (2002) 22 B.L.R (3d) 182 (Dispute over control of a large charitable foundation)
- *Hooper v. Hooper* (2002) 59 O.R. (3d) 707 (Whether pensions can be seized to secure support arrears arising from marital breakdown)

Tort

- *State Plan NW 341 - Canlan Ice Sports Corp* [2001] B.C.J. No. 1723 aff'd [2003] B.C.J. No. 2142 (Precedent setting judgment in excess of \$3 million against municipality for negligent inspection of condominium's construction)

- *Kealey v. Berezowski* (1996) 30 O.R. (3d) 37 (successful recovery of damages for wrongful pregnancy due to medical negligence)
- *Toneguzzo-Norwell v. Burnaby Hospital* [1994] 1 S.C.R. 114 (Successful appeal restoring trial judgment of \$1.9 million in medical negligence action)
- *B.G. Checo v. British Columbia Hydro*[1993] 1 S.C.R. 12 (Interaction of contract law and law of negligent misrepresentation)
- *Rainbow Industrial Caterers v. CNR* [1991] 3 S.C.R. 3 (Negligent misrepresentation in relation to contract formation)