

# Jonathan Hodes

## Partner

### Vancouver

#### OFFICE

604.643.1256

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## Industries & Expertise

#### INDUSTRIES

Automotive

#### EXPERTISE

Lloyd's of London | Insurance Defence

## Biography

#### BAR ADMISSION

British Columbia, 1996

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#### EDUCATION

- LL.B., University of Windsor, 1995
- J.D., University of Detroit Mercy, 1995

#### LANGUAGES SPOKEN

English

Jonathan Hodes practices insurance and environmental litigation. He provides practical and cost-effective advice to Canadian, American, and international clients on claims involving all types of policies, including product liability, professional liability, environmental and other specialty risks, as well as matters involving coverage.

In addition, he has completed Pepperdine University's prestigious "Mediating the Litigated Case" program, and offers his services as a mediator in civil claims. To book a mediation, please contact Daniela Ladouceur at 604.628.2903 or [dladouceur@millერთhompson.com](mailto:dladouceur@millერთhompson.com).

## Industry involvement

### Recognition

- *The Best Lawyers in Canada* – Insurance Law, 2021 – 2024
- Martindale-Hubbell BV Distinguished Rated Lawyer, 2015 – 2020

### Thought leadership

#### Selected Presentations

- DRI, Product Liability Conference, 2020
- “The (Not So) Absolute Pollution Exclusion: Recent Developments in Pollution Claims,” Insurance Council of Manitoba, 2018
- “Introduction to Product Liability”, Canadian Bar Association, 2018
- “Looking Through the Post 10/17 Haze: High Times or High Risk?”, Aon Reciprocal and Captive Conference, 2018
- “Update on Key Civil Litigation Cases Across Canada”, Canadian Bar Association, 2018
- “Cross-Border Hot Topics: Dealing with Canadians in Washington Litigation,” Washington Defense Trial Lawyers Annual Tort Law Update, 2017
- “International Insurance Law and the Power of Attorney and Undertaking,” Canadian Bar Association, 2017
- “Discovery Issues: Can Foreign Manufacturers Still Hold their Cards Close to the Vest?”, DRI Product Liability Conference, 2017
- “Out-of-Province Accidents and Defendants,” BC Continuing Legal Education Society, 2015
- “Handling First Party Claims in BC,” Spokane, 2015
- Co-Chair, Canadian Defence Lawyers-Canadian Insurance Claims Managers’ Association Joint Programme, 2014
- “Cross Border Claims and Dealing with ICBC: Toto, I’ve a Feeling We’re Not in Kansas Anymore,” Washington Defense Trial Lawyers, 2014
- “BC Contaminated Sites 101 and Consultants Liability,” Vancouver, 2014
- “When U.S. Insurers Face Claims in Canada: Coverage for the Cross-Border Accident,” Seattle/Portland, 2013
- “Off-Site Contamination: A Primer for Developers and Landowners,” Vancouver, 2013
- “Defence Counsel’s Perspective on Mediation: Its Utility, What Works and What Doesn’t,” BC Commercial Mediators Association, 2013
- “Government Recovery of Health Care Costs in BC and Alberta – What Counsel Need to Know,” Canadian Bar Association, 2013

- "Tort Immunity," Canadian Independent Adjusters Association, 2012

## **Publications**

- Regional Editor and contributing author, "Insurance Policy Rescission Compendium," DRI, 2018
- "Missing Words Turn Successful Defense of Insured into Loss for Insurer: Long Term Gain Comes at a Cost," *For the Defense*, June 2016
- "Precision Plating Part II: British Columbia Court of Appeal restores effect of Absolute Pollution Exclusion," *Lloyd's Brief: Canadian Legal Perspectives*, September 2015
- "Pollution Resulting From Fire is Not 'Pollution,' says BC Court," *Lloyd's Brief: Canadian Legal Perspectives*, December 2014
- "Health Care Costs Recovery Legislation: Subrogation for Medical Costs in BC and Alberta," CBA Alberta Law Conference, 2013
- "Automobile Accidents in British Columbia: A Manual for US Claims Examiners," 2012-2020
- Contributing author to chapters on "Out of Province", and "Excess Insurance and Optional Insurance Coverages", *British Columbia Motor Vehicle Accident Claims Manual*, Continuing Legal Education Society of British Columbia, 2011-2020
- "Pollution Exclusion Clauses in the CGL Policy: Current Issues in Coverage Litigation," *Canadian Journal of Insurance Law*, Vol. 27, No. 4, 2009
- "BC 'wrongdoers' must pay back government's health care costs," *The Lawyers Weekly*, 2009

## **Notable matters**

### **Insurance**

- Appearing in the Supreme Court of Canada on behalf of the successful appellant in *Family Insurance v. Lombard Canada*, now the leading case in Canada on overlapping coverage between liability insurance policies.
- Appearing in the BC Court of Appeal on behalf of the successful appellant in *North Newton Warehouses Ltd. v. Alliance Woodcraft Manufacturing Inc.*, a leading case in the area of "tort immunity" arising out of insurance covenants in commercial contracts.
- Successfully obtaining the production of government documents over which cabinet privilege was claimed in *Nunavut (Department of Community and Government Services) v. Northern Transportation Company Ltd.*
- Successfully challenging the court's jurisdiction under the *Court Jurisdiction and Proceedings Transfer Act* and obtaining stays of proceedings in several actions, including *Roed v. Scheffler* and *Sekela v. Cordos*, in which U.S. parties were sued in British Columbia.
- Defending product liability claims arising out of such diverse products as gasoline, automatic doors, food products, sporting goods, electronics, furniture, and construction materials.

- Being retained by defence counsel in choice of law proceedings in the Superior Court of Washington to provide opinion evidence of BC product liability and damages law.
- Defending a major Texas oil trader in a multi-million dollar lawsuit arising out of the supply of fuel to a Canadian Territorial government.
- Defending multiple actions, including class action proceedings, arising out of the catastrophic collapse of a church floor during a rock concert.
- Regularly assisting U.S. and out-of-province Canadian insurers with cross-border coverage issues arising out of claims involving non-BC residents.
- Advising insurers on environmental coverage and exclusions.
- Providing coverage opinions and handling disputes involving coverage denials, priority disputes between insurers, and equitable contribution claims.
- Acting for highway maintenance contractors in “black ice” MVA cases.
- Representing insurers in relation to SIU investigations and denials of fraudulent claims.
- Handling numerous defamation actions including several arising out of newspaper publications, television broadcasts, and anonymous postings on Internet bulletin boards.
- Successfully defending a \$300 million loss-of-profits claim against a major educational institution, resulting in a dismissal of the claim and \$1 million costs award in favour of the client.
- Reviewing broker-drafted wordings for enforceability and drafting policy language for inclusion into various forms of liability and property coverage.

### **Environmental Litigation**

- Representing a major forestry company in proceedings brought under the *Forest and Range Practices Act*.
- Acting for a developers, natural resource companies, and dry cleaners in respect of historical and off-site contamination under BC's *Environmental Management Act*.
- Successfully defending a general contractor in *Swamy v. Tham Demolition*, the first decision to address the BC Supreme Court's jurisdiction to deal with cost recovery actions brought under the *Waste Management Act*. The decision has led to changes in British Columbia's contaminated site legislation.
- Acting for an international chemical manufacturer in a multi-million dollar contaminated site remediation claim arising out of chemicals spilled during a warehouse fire
- Acting in a case involving dumping and alleged interference with water tables and wildlife habitats on Vancouver Island.
- Acting for a chemical company in a case involving historical contamination over a 40-year period on an industrial site in North Vancouver.
- Advising clients on issues of environmental coverage and exclusions in insurance policies.

### **Corporate directorships**

- Chair, International Legal Issues SLG, DRI Product Liability Committee, 2016-present
- Immediate Past President, Canadian Defence Lawyers, 2014-2015
- President, Canadian Defence Lawyers, 2013-2014
- First Vice-President, Canadian Defence Lawyers, 2012-2013
- Executive Committee and Board Member, Canadian Defence Lawyers, 2009-2015
- Board Member, Canadian Defence Lawyers, 2006-2009

### **Memberships & affiliations**

- Elected Member, International Association of Defense Counsel
- Elected Member, Association of Defense Trial Attorneys
- Law Society of British Columbia
- Law Society of Alberta
- Colorado State Bar
- Canadian Defence Lawyers
- Canadian Bar Association
- DRI, "The Voice of the Defense Bar"