



## Philip A. Carson

Associate Counsel | Calgary

403.298.2403

pcarson@millerthomson.com

### RELATED SERVICES

Commercial Debt Recovery

Commercial Litigation

Construction Litigation

Restructuring & Insolvency

### RELATED INDUSTRIES

Construction and Infrastructure

Energy & Natural Resources

Franchising

Insurance & Risk Management

Projects

### RELATED FOCUS AREAS

Lloyd's of London and International  
Insurance

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## Biography

Philip Carson, Ph.D. delivers effective and efficient solutions concerning litigation in construction, builders' liens, professional negligence, and real estate disputes. He focuses on disputes related to buildings and land.

Philip's key areas of experience as a litigator include:

**Construction and engineering:** Philip has a strong practical understanding of construction and engineering which he uses to defend negligence claims against architects and engineers and to deal with disputes over construction contracts, construction delays, and changes. Philip also has a depth of knowledge of builders' lien claims. He advises on drafting and administering construction contracts to help his clients avoid the kinds of disputes he sees in his litigation practice.

**Shareholder and Partnership Disputes:** Philip is co-leader of Miller Thomson's practice group focused on disputes among shareholders and business partners. He has advised and conducted litigation involving disputes among shareholders of private and public companies, oppression actions, rights under unanimous shareholder agreements and proceedings related to the conduct of shareholder meetings.

**Real estate and commercial leasing:** Philip frequently acts for landlords and tenants in commercial lease disputes and for purchasers and vendors in disputed real estate transactions. He also defends negligence claims against real estate appraisers and mortgage brokers.

**Franchise litigation:** Philip has acted for franchisors and franchisees in disputes over breaches of franchise agreements and compliance with disclosure obligations.

Philip's strategic thinking and advocacy skills complement his specific legal and business knowledge to make him an effective advocate. He has experience at all levels of Alberta courts and with arbitrations under the ADR Institute of Canada, International Chamber of Commerce, American Arbitration Association, and CCDC.

Philip takes the time to develop an in-depth understanding of his clients' businesses and firmly believes that every client deserves his prompt and thorough attention.

Philip's clients benefit from his strong academic background and his diverse business experience in technical and management positions in the petrochemical, waste management, and oil and gas industries.

A Ph.D. in chemistry led to Philip's previous career in technical services in the petrochemical and oil and gas industries, followed by positions in upstream oil and gas environmental and safety management, and operations positions in oil and gas and industrial waste management.

Philip served as a clerk to the Alberta Court of Queen's Bench and Alberta Court of Appeal. Before being admitted to the Law Society of Alberta, Philip completed his articles with Miller Thomson.

## Notable matters

- Successfully defended at trial an owner that allegedly awarded a construction tender to the wrong bidder.
- Successfully defended at trial an engineer accused of structural design errors (overturned on appeal).
- Mediated the resolution of a sub-contractor claim for extras related to a power generation plant, resulting in the claimant paying money to the general contractor.
- Advised a multi-national contractor that successfully recovered costs and cancellation fees upon cancellation of an oil sands project.
- Achieved summary judgment discharging a caveat asserting an option to purchase under a commercial lease.
- Successfully defended at trial a health professional accused of taking patients to a new practice.
- Successfully resisted a claim against a franchisor for rescission of a franchise agreement.
- Obtained summary judgment on behalf of franchisee declaring a franchise agreement to have been terminated.
- Obtained summary dismissal of a negligence claim against a real estate appraiser.
- Represented numerous builders' lien claims, maximizing the claimants' recovery.

## Thought leadership

- "Director's Liability for Corporate Negligence," *Lloyd's Brief: Canadian Legal Perspectives*, December 2015
- "Triple Jeopardy: Civil, Disciplinary, and Regulatory Proceedings against Professionals," *Lloyd's Brief: Canadian Legal Perspectives*, September 2015
- "Caution: Limitation Clauses May Not Apply" *Canadian Consulting Engineer*, March/April 2015
- "What To Do With Sleeping Dogs: Dismissal for Delay," *Lloyd's Brief: Canadian Legal Perspectives*, December 2014
- "Dos and Don'ts of Construction Disputes," *The Constructor*, 2014
- "Limitations of Liability Clauses that may not Limit Liability," *Construction Communiqué—Alberta*, August 2014
- "Frustration of Contract and Force Majeur," *Construction Business BC & Alberta's Construction Magazine*, 2013
- "Repair and Maintenance Obligations Under the Commercial Lease," *Real Estate Report*, December 2012
- "New Property Tax Appeal Procedures in Alberta," *Real Estate Report*, February 17, 2012
- "Real Estate Commissions Disputes," *Real Estate Report*, December 9, 2011
- "Disaster Strikes—Frustration of Contract and Force Majeure," *Construction Communiqué—Alberta*, February 2011
- "Maintaining Core Values As A Company Grows", *Profile Magazine*, 2010
- "Exposure to Liability From Service of Alcohol at Events," *Charities and Not-for-Profit Newsletter*, September 2008
- "WCB Implications of Telecommuting," *Network*, 2008
- "Gone But Not Forgotten—Environmental Obligations in O&G Transactions," *EnviroNotes!*, November 2006
- "Engineers are easy targets for frivolous lawsuits," *Canadian Consulting Engineer*, March/April 2017

## Professional memberships

- Member, The Law Society of Alberta
- Member, Canadian Bar Association

## Bar admissions & education

- Alberta Bar, 2004
- LL.B., University of Calgary, 2003
- Ph.D. (Chemistry), University of Ottawa, 1990
- M.Sc. (Chemistry), Western University, 1986
- B.Sc. (Hons.) (Chemistry), Western University, 1984