



## **Thomas R. Whitby**

**Partner | Toronto**

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### **Biography**

Tom Whitby's construction litigation practice is focused primarily in the area of professional negligence. In over 25 years at Miller Thomson, Tom has litigated on behalf of architects and engineers in all types of construction claims including fee disputes, bidding and tendering claims, architectural and engineering design negligence claims, construction deficiency claims, sustainable design claims, P3 claims, and delay claims.

Tom acts for general contractors in litigation involving construction deficiency allegations. He also acts on behalf of contractors in advancing and defending construction lien claims. Tom's practice involves disputes regarding diverse types of buildings, from houses to bank towers, and claims varying in size from thousands of dollars to tens of millions of dollars throughout Canada and abroad.

Tom acts for insurers on coverage disputes involving the interpretation of primary, excess, and reinsurance policies. He has been consulted by various insurers on policy wordings related to construction claims.

Tom also acts on behalf of architects in professional discipline claims.

In addition to his litigation practice, Tom provides advice to design consultants with respect to contract language, drafts consultant agreements, and assists with the negotiation of consultant contracts. He provides advice on public-private partnership (P3) arrangements for large public institutions and drafts the insurance, indemnity, and liability provisions in P3 agreements. He also drafts construction contracts for P3 agreements.

Tom's practice has taken him before all levels of courts in Ontario and before the Supreme Court of British Columbia. He has also appeared before the Commercial List of the Ontario Superior Court on various commercial litigation matters.

### **Professional achievements & leadership**

- *The Best Lawyers in Canada* - Construction Law, 2015 - 2024;  
Insurance Law, 2013 - 2024

### **Thought leadership**

### **RELATED SERVICES**

Construction Litigation  
Insurance Defence

### **RELATED INDUSTRIES**

Construction and Infrastructure  
Insurance & Risk Management  
Projects

### **RELATED FOCUS AREAS**

Lloyd's of London and International  
Insurance

- Tom lectures regularly at loss prevention seminars for the professional regulatory bodies.
- For the last 10 years, he has lectured annually to insurance syndicates at Lloyd's of London on topics related to construction law in Canada, insurance policy interpretations and professional indemnity and civil procedure.

## **Professional memberships**

- Canadian Bar Association

## **Bar admissions & education**

- Ontario, 1988
- LL.B., Queen's University, 1986
- B.A. High Honours, Economics, University of Regina, 1982