



## Peter J. Roberts

### Partner

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### Vancouver

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Peter is a litigator with a wide range of experience, practising for over 26 years in Vancouver. For a number of years he practised criminal law before resuming civil and commercial litigation, including claims involving allegations of fraud. He has appeared before all levels of court in British Columbia as well as other professional bodies. His experience includes products liability, property law disputes, professional negligence claims, insurance defense and coverage, defamation, commercial disputes, contracts, copyright and trademark matters, company law and banking and insolvency litigation. He also has experience obtaining and defending various types of injunctions, including Mareva and Anton Pillar injunctions. He is well versed in strata corporation windups having completed the first court approved windup in BC.

Peter was the Head of the Litigation Group at Lawson Lundell from 2008-2010.

Peter is a regular contributor to Lawson Lundell's Commercial Litigation and Dispute Resolution Blog, a resource that examines current trends and interesting issues emerging in the legal and business communities.

### Professional Activities

- Canadian Bar Association, Member
- Justice Education Society, Board Member
- Vancouver Bar Association Executive Committee (2002)
- The Advocate, Editorial Board Member

### Community Activities

- Touchstone Theatre Company, Former Director
- Lighthouse Park Preservation Society, Member

### ASSISTANT CONTACT

Fiona Lane

Legal Assistant

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### BAR ADMISSIONS

British Columbia (1991)

Northwest Territories (2009)

Nunavut (2017)

### EDUCATION

McGill University (B.A. (History), 1985)

University of British Columbia (LL.B., 1989)

### PRACTICES & INDUSTRIES

Alternative Dispute Resolution

Commercial Litigation

Construction, Infrastructure & Engineering

Defamation and Media

Healthcare

Insolvency & Restructuring

Insurance Litigation

Litigation & Dispute Resolution

Mining

Product Liability

Real Estate Litigation

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- Law Courts Inn, Director

## Recognitions & Rankings

- *Best Lawyers in Canada*: recognized for Alternative Dispute Resolution, Corporate and Commercial Litigation, Insolvency & Financial Restructuring and Product Liability law
- *Benchmark Canada: The Guide to Canada's Leading Litigation Firms and Attorneys*: recognized as a Litigation Star for General Commercial litigation in British Columbia
- *Martindale-Hubbell International Law Directory*: BV Peer Review rated

## Experience

Peter's experience includes the following:

### Commercial Litigation

- *B2Gold v. Condor Resources PLC*, 2015.
  - BCSC 1548 Obtained declaration regarding enforceability and transfer of a historical Net Smelter Return Royalty Agreement in the context of a concession swap for Nicaraguan mining claims
- *Kennedy v. Coe*, 2014 BCSC 120.
  - Successful defence of wrongful death claim brought by widow of heli-ski participant against the "ski buddy"
- *Wiebe v. Federal Pioneer Ltd. and others*, B.C.S.C.
  - Vancouver SOO3235. Defended Federal Pioneer Ltd. and Schneider Canada Inc. in a products liability claim involving the design and manufacture of commercial electrical equipment. The claim involved an explosion and fire in a hotel and was dismissed
- *Great Canadian Casino v. Schneider Canada Inc.*, B.C.S.C. Vcr. Reg. Action No. S065158, Oral Reasons, November 25, 2011
  - Successfully defeated a products liability claim against an electrical manufacturer for the negligent design and manufacture of process logic controllers used in a municipal sanitary lift station
- *National Importers Ltd. v. Williams Foods*, 2006 BCSC No. S042501.
  - Successful defence of a claim for damages in breach of a terminated distribution agreement

### Real Estate

- *The Owners, Strata Plan VR2122 v. Wake*, (The Hampstead), 2017 BCSC 2386.

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- Successful application to wind-up a strata corporation and approval of a sale to a developer over the substantive opposition of a minority of strata owners. This is the first substantive decision in BC to address the application of the recent amendments to the *Strata Property Act* that provide for the wind-up of a strata corporation upon an 80% vote of the owners
- *In the Matter of the Application for the Wind-Up of Strata Plan NW422 (Cottonwood)*, 2016 BCSC 285.
  - Successful application to wind-up a strata corporation for the purposes of sale to a developer over the opposition of a minority of strata owners
- *McRae v. Seymour Village Management Inc.*, 2014 BCSC 714.
  - Acting for 87 of 114 registered owners, obtained order for sale of 6.25 acre common law residential cooperative under the *Partition of Property Act*
- *The Board of Education of School District No. 39 (Vancouver) et al., v. HMTQ et al.*, SCBC Vancouver Registry No. S-136131.
  - Successful application under Property Law Act to amend restrictive covenant registered on title to Andy Livingston Park in Vancouver for the purposes of allowing construction of a school in neighbouring airspace parcel
- *Canadian Petcetera Limited Partnership v. 2876 R Holdings*, 2009 BCSC 1135; Upheld on appeal: 2010 BCCA 469.
  - Successfully challenged wrongful termination of lease by landlord

### Fraud Claims

- *West Care Medical Ltd. v. Brown*, 2009 BCSC No. S096285.
  - Obtained Mareva Injunction, document recovery orders and \$1.4 million judgment on behalf of client following discovery of defalcation by former employee
- *Royal Vancouver Yacht Club v. Datsko*, 2007 BCSC No.S076896.
  - Obtained judgment and recovery on behalf of R NYC following the discovery of the theft of a significant amount of money by a former employee. This case involved obtaining several Mareva injunctions to freeze and trace property

### Defamation

- *Lewis v. Abel and others*, 2007 BCSC 604.
  - Successful defence of a defamation claim alleging malice against three medical professionals in the context of their work in a specialized hospital team

- *Schut v. Magee*, 2003 BCCA 417.
  - A case involving a successful trial and appellate defence of a claim for defamation brought by one professional against others

### Banking & Finance

- *Bankers Mortgage Corp. v. Plaza 500 Hotels Ltd.*, 2016 BCSC 722, Affirmed 2017 BCCA 66.
  - Successful enforcement of a borrower's "exit fee" obligation payable to lender's mortgage broker where borrower raised defences of contraventions of *Interest Act* and common law penalty in an effort to avoid payment
- *Moffoot v. Royal Bank of Canada and others*, 2014 BCSC 1387.
  - Obtained dismissal of complicated mortgage fraud claim against a financial institution in protracted multi-party litigation
- *Bank of Montreal v. Tolo-Pacific Consolidated Industries Corp.*, 2012 BCSC 1785.
  - Obtained judgment on personal guarantees for secured creditor and defeated protracted claim for improvident realization of debtor's assets
- *HSBC Bank Canada v. Kupritz*, 2011 BCSC 788.
  - Defeated allegations of improvident realization of corporate debtor's assets raised by personal guarantors against a secured creditor as a defence to liability under their guarantees. Obtained judgment against personal guarantors

### Bankruptcy & Insolvency

- *Fisgard v. Bond Street*, 2012 NWTSC 11.
  - Acted for lien holder in priority dispute with mortgagee over proceeds of sale of a failed real estate development
- *Brebber v. Dodd*, 2011 BCSC 200; *Receivership of Pope & Talbot Ltd.*, 2009 BCSC 1738, 2011 BCSC 789; *Pope & Talbot Ltd. (Re)*, 2011 BCCA 326; *Pope & Talbot Ltd. (Re)*, 2009 BCSC 1823, 2010 BCSC 757, 1885, 1889, 1902, 2011 BCSC 139.
  - Acted for former employees of a bankrupt pulp mill in unpaid wage claim against former directors in the context of a cross-border CCAA proceeding. Claims involved complicated insolvency, priority, insurance coverage and director's liability issues
- *Forsyth (Re)*, 2010 BCSC 1720.
  - Successfully set aside a Declaration of Trust as a "sham". The trust purported to make the registered owner of land simply a "bare trustee" for an insolvent company and defeat numerous creditors

## Estate Litigation

- *J.R. v. J.D.M.*, 2016 BCSC 2265.
  - Successful claim to vary a will in circumstances where the plaintiff was estranged from an abusive parent and had been disinherited as a consequence
- *Brown v. Estate of Pearce*, 2014 BCSC 1402.
  - Successful defence of wills variation claim brought by adult son seeking to vary his deceased mother's will

## News & Publications

- Information About Our Experience with Strata Corporation Wind Ups, Annual, to date
- Peter Roberts quoted in *The Lawyer's Daily, LexisNexis Canada - The Lawyer's Daily*, January 9, 2018
- Peter Roberts Quoted in *Globe and Mail* on Significant Recent Strata-Wind Up Decision, December 29, 2017
- 46 Lawson Lundell Lawyers Ranked Across 30 Practice Areas in 2018 *The Best Lawyers in Canada*®, August 22, 2017
- Peter Roberts quoted in *Business In Vancouver*, March 27, 2017
- Peter Roberts quoted in *Business in Vancouver*, March 14, 2017
- Peter Roberts featured in the *Vancouver Sun* article, "Legislation could prompt wave of stratas to disband, sell whole buildings to developers.", *Vancouver Sun*, August 8, 2016
- Peter Roberts quoted in the *Globe and Mail* article, "Lower Mainland condo owners selling whole buildings to developers.", February 26, 2016
- Peter Roberts discusses potential defamation liabilities associated with commenting on posted videos with CTV BC, January 20, 2015
- *The Rise of Civil Forfeiture, BarTalk*, August 1, 2014
- Peter Roberts quoted in *Times Colonist* article "Abbotsford seniors' condo battle worse than a reality TV show", May 26, 2014
- Peter Roberts quoted in *National Post* article "B.C. property titles bear reminders of a time when race-based covenants kept neighbourhoods white", May 16, 2014
- "Selling an entire strata building." *Western Investor*, April 2014, Author, April 15, 2014
- Peter Roberts Guest Stars on *Radio Real Estate, AM 650*, February 1, 2014
- Peter Roberts quoted in *CBC Radio* article "Ski buddy not responsible for man's death", January 28, 2014

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- Peter Roberts quoted in Vancouver Sun article "B.C. judge rules British "ski buddy" not liable for Colorado man's death, January 28, 2014
- Peter Roberts quoted in Globe and Mail article "'Ski buddy' not responsible in back-country death, B.C. judge rules", January 28, 2014
- Peter Roberts' article reprinted in the December issue of British Columbia Real Estate Developments., January 27, 2014
- Peter Roberts quoted in Globe and Mail article "Shared property owners in North Vancouver can force sale, B.C. Supreme Court rules", January 21, 2014
- The Commercial Lease, A Practical Guide, 5th ed. (2013), Canada Law Book, Harvey Haber, Q.C.
- Peter Roberts quoted in The Vancouver Sun article, "New school planned for downtown clears hurdle", November 1, 2013
- Peter Roberts quoted in The Vancouver Sun article, "OneCard ignites legal battle as community associations ask court to halt access card", September 19, 2013
- Peter Roberts quoted in Canadian Lawyer Magazine article, "It's tough to kick someone out of their castle", November 6, 2012
- "How to Find Your Defamer on the Internet", *Internet and E-Commerce Law in Canada, Lexis Nexis Canada Inc., Vol. 12, No.11 and Western Canada Business Litigation Blog*, March 2012
- "A Cautionary Tale for Front Line Bank Employees", *Western Canada Business Litigation Blog and National Banking Law Review*, October 2011
- "I have a right to a bank account!", *Western Canada Business Litigation Blog and National Banking Law Review*, October 2011
- "But I spent the money already!", *Western Canada Business Litigation Blog and National Banking Law Review*, October 2011
- Peter Roberts quoted in The Globe and Mail article on British Columbia's Civil Forfeiture Act, September 8, 2011
- Peter Roberts quoted in Canada.com article on Nanaimo's Harmac pulp mill lost vacation pay case, January 26, 2011
- Practical Tips for Tough Economic Times, May 20, 2009
- "The Taxation of Contingent Fee Agreements in Bankruptcy Files", *Commercial Insolvency Reporter, Vol 19, No. 5*, June 2007
- "Adrift in a Sea of Government Searches: What to do when the M.V. Nadon pulls along side", *The Marina Mirror*, 2001
- The Annotated British Columbia Limitation Act
- Lord High Executioner: An Unabashed Look at Hangman, Headsmen and Their Kind, 55 Advocate 441, Howard Engel, 1997

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- After the Madness: A Judge's Own Prison Memoir, 1997

## Blog Posts

- Liability Waivers and the Art of Skiing, Commercial Litigation and Dispute Resolution Blog, February 26, 2018
- The Remedy of "Money Had and Received.", Commercial Litigation and Dispute Resolution Blog, October 23, 2017
- Court of Appeal upholds mortgage exit fee in face of Interest Act challenge, Commercial Litigation and Dispute Resolution Blog, March 17, 2017
- How do the courts allocate loss amongst innocent victims of a fraud?, Commercial Litigation and Dispute Resolution Blog, February 14, 2017
- The Perils of Trespass, Commercial Litigation and Dispute Resolution Blog, December 20, 2016

## Speaking Engagements

- "Strata Corporation Wind-Ups", 2017 CAIRP Annual Conference, Kelowna, August 24, 2017, Speaker
- "Strata Corporation Wind-Ups: A short primer", Insolvency Discussion Group, Speaker, January 31, 2017
- "Bankruptcy & the Landlord Tenant Relationship", Bankruptcy & Insolvency 2016 Course, Continuing Legal Education Society of British Columbia, April 22, 2016, Speaker
- "Enforcement and Recovery Part 1: What to Do (And Not to Do) Before Judgment", Creditors' Remedies 2015 Course, Continuing Legal Education Society of British Columbia, October 28, 2015, Speaker
- "Kennedy vs. Coe Lawsuit," Canada West Ski Areas Association conference, Fairmont Chateau Whistler, May 14, 2014
- "Constructive Trusts", Creditors' Remedies 2014, Continuing Legal Education Society of British Columbia, April 14, 2014, Speaker
- "Enforcement and Recovery Part 1: What to Do (And Not to Do) Before Judgment", Creditors' Remedies 2012 Course, May 17, 2012, Speaker
- An overview of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, Seminar, December 2010, Speaker
- "A Sign of the Times: What to do when you Discover Employee Fraud", Practical Tips for Tough Economic Times Seminar, Vancouver, BC, May 20, 2009, Speaker