

James W. MacLellan

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International Construction Projects
Construction Disputes
Government & Public Sector
Infrastructure
P3 Contracts
Surety and Bonding

James' practice focuses on construction and surety bonding issues. He spends the majority of his practice advising sureties on complex insolvency and risk mitigation matters.

He also advises a number of public institutions including hospitals, colleges and municipalities in infrastructure, procurement and contract litigation matters.

James has appeared before the Supreme Court of Canada and Court of Appeals in Ontario, Manitoba and Alberta, and before the Supreme Court of Nova Scotia, Saskatchewan and Newfoundland.

With extensive experience, James lends his expertise in the area as an instructor for the Surety and Construction Law Course at the School of Continuing Studies, University of Toronto for the Surety Association of Canada.

James is the author of several papers and a frequent speaker at legal conferences and seminars on topics related to surety and construction law.

Experience

- Iona Contractors Ltd. v Guarantee Company of North America, (2015) ABCA 240 — upholding trust provisions under Alberta Lien Legislation.
- AXA Pacific Insurance Company v. Romcan Limited, (2009) — obligation to make documentary production in a Performance Bond case.

- Shannex Inc. v. St. Paul Guarantee Insurance Company (Re Meridian Construction), (2006) NSJ No. 22 (Sup. Ct.) — court refused to grant to an owner an order to lift the automatic stay against the bankrupt contractor to enable an owner to prove a claim against a surety. Court also held the surety would not be bound by an arbitration award in which it did not participate.
- Isobord v. Chubb, (2003) OJ No. 3527 (SCJ), aff'd [2004] OJ No. 2202 (CA): The rights of a secondary obligee under a Performance Bond Dual Obligee Rider are derivative of the rights of the primary obligee.
- Kennedy Electric v. Rumble Automation (2004), 73 OR (3d) 530, [2004] OJ No. 5091 (SCJ) — the installation of an assembly line is not lienable under the Ontario Construction Lien Act.
- La Coopérative d'Habitation Antigonish v. Laurentian General (2001) Carswell Ont. 3346 (SCJ) — dismissal of action under Performance Bond for failure of obligee to commence action within suit limitation period in Performance Bond.

Insights & Events

- Author, "Performance bonds remain effective despite stay ordered in CCAA proceedings", BLG Article, October 2025
- Co-Author, "Industry Perspectives Op-Ed: TruGrp v Karmina – Uncertainty in the use of letters of credit to vacate construction liens?," Daily Commercial News, June 2024
- Author, "Understanding the use of lien bonds on Crown land", BLG Article, August 2023
- Author, "Using lien bonds on Crown Lands – Is there a difference?", BLG Article, June 2022
- Speaker, "Canadian Surety Legal Update," Surety Association of Canada, February 8, 2022
- Presenter, "Headwinds Facing Construction Companies and Impacts of the New Construction Act," 2019 CAIRP Exchange, September 26, 2019.
- Author, "End of the Road: The Supreme Court of Canada Denies Leave to Appeal in Iona Contractors Ltd. v The Guarantee Company of North America", BLG Article, April 2016

Beyond Our Walls

Professional Involvement

- Member, American Bar Association (tort and insurance practice section), and member, surety and fidelity subcommittee and construction forum
- Member, Brock University Faculty of Business Alumni
- Member, Metropolitan Toronto Lawyers Association
- Instructor, Surety and Construction Law Course (correspondence), School of Continuing Studies, University of Toronto for the Surety Association of Canada

Awards & Recognition

- Recognized in the 2027 edition (and since 2010) of *The Best Lawyers Canada* (Construction Law).
- Recognized in the 2025 edition (and since 2015) of *The Canadian Legal Lexpert Directory* (Construction Law).
- Recognized as a leading Canadian infrastructure lawyer in the 2025 edition (and since 2017) of the *Lexpert/Report on Business Special Edition on Infrastructure.*
- Brock University – Faculty of Business Distinguished Graduate, 2009.

Bar Admission & Education

- Ontario, 1995

- LLB, University of Windsor, 1993
- B.Admin. (Hons.), Brock University, 1987

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