

Rodney A. Smith

Partner

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Construction
Construction Disputes
Commercial Arbitration
Commercial Litigation
Contract Disputes
Energy Disputes
Intellectual Property Litigation
International Arbitration

Rodney has extensive experience representing clients in matters involving complex commercial litigation and arbitration.

Rodney's practice primarily focuses on construction disputes. He has represented owners, general contractors and subcontractors in disputes arising from large-scale construction and engineering projects. His experience includes cases involving contractual interpretation, negligence, delay claims, deficiencies and builders' liens.

Rodney has also represented clients in a variety of contractual disputes, energy disputes, and commercial real estate disputes. He also has extensive experience with intellectual property litigation, particularly with respect to copyright, trademarks and confidential information. Rodney is also a Trademark Agent.

Rodney has significant trial and appellate experience, appearing before all levels of court in Alberta, the Court of King's Bench of Manitoba, the Court of King's Bench for Saskatchewan, the Court of Appeal for Saskatchewan, the Federal Court, the Federal Court of Appeal, as well as various administrative tribunals. Rodney also has significant arbitration experience and has appeared in a number of domestic and international arbitrations.

Rodney is the Regional Group Manager for both the Disputes, Commercial Litigation and Construction Group and the Specialized Disputes Group in Calgary.

Experience

- **Arbitration experience**
  - Counsel for a construction manager in a dispute with the owner and a number of subcontractors arising from the construction of a large public infrastructure project in northern Alberta.
  - Counsel for a commercial property owner in a dispute over a commercial lease renewal.
  - Counsel for the owner of a sulphur forming plant in an ICC arbitration involving a dispute with the EPC contractor over delay and deficiency claims.
  - Counsel for a general contractor in an ICC arbitration involving a dispute with the owner over the termination of a contract for the construction of mine infrastructure in northern Canada.
  - Counsel for a telecommunications company in a dispute over a commercial lease renewal.
  - Counsel for an EPC contractor in a dispute with the owner over the construction of a carbon capture plant.
  - Counsel for a general contractor involved in a dispute with the owner and a number of subcontractors arising out of the construction of an international airport terminal.
- **Litigation experience**
  - Counsel for an architect in a dispute with the owner over the construction of a skyscraper in Calgary.
  - Counsel for an owner of a commercial property in a dispute involving the trade fixtures; successfully obtained summary dismissal of the claim.
  - Counsel for a joint venture in a dispute with a utility company arising out of the construction of a major highway project.
  - Counsel for a contractor involved in a dispute arising from the design and installation of fuel tanks in the Northwest Territories.
  - Successfully applied to strike a claim for breach of contract on the basis of abuse of process and res judicata.
  - Successfully obtained a judgment for conversion and defended claims for malicious prosecution and defamation in a trial involving top fuel dragsters.
  - Successfully defended an electrical utility company in a trial involving a dispute over a construction contract.
  - Successfully defended a residential construction company in a trial involving a custom home construction contract.
  - Successfully obtained a judgment in a trial against a contractor for residential home construction deficiencies; decision upheld on appeal.
  - Representative reported decisions:
    - *Pyrrha Design Inc v Plum and Posey Inc*, 2022 FCA 7; successfully upheld trial decision dismissing claims for copyright infringement at trial.
    - *Pyrrha Design Inc v Plum and Posey Inc*, 2019 FC 129; successfully defended claims of copyright infringement at trial.
    - *EllisDon Corp v Winnipeg Airports Authority Inc*, 2018 MBQB 203; successfully advanced claims by a general contractor for payment of the outstanding contract balance and defended claims involving contractual set-off and interpretation of a CCDC contract at trial.
    - *Pyrrha Design Inc v Plum and Posey Inc*, 2016 ABCA 12; successfully obtained summary dismissal of an action for breach of contract; decision upheld by the Court of Appeal of Alberta.
    - *Krieter v Alberta*, 2014 ABQB 349; successfully applied to have an environmental claim against a municipality dismissed for long delay.

- *Westridge Utilities Inc v Alberta (Director of Environment, Southern Region)*, 2012 ABQB 681; co-counsel in a judicial review application upholding a decision of the Environmental Appeal Board.
- *Westridge Utilities Inc v Director, Southern Region, Environmental Management, Alberta Environment, re: Rocky View County* (Nov. 30, 2011), Appeal No. 10-032-D (A.E.A.B.); co-counsel in a successful hearing before the Environmental Appeal Board to have an appeal under the *Water Act* dismissed.
- *Pat's Off-Road Transport v Campbell*, 2010 ABQB 443; co-counsel in a successful trial against a former employee for breach of confidence and fiduciary duty.
- *Stonetile (Canada) Ltd v Castcon Ltd*, 2010 ABQB 392; co-counsel in a successful trial against a former employee for breach of confidence and fiduciary duty.

Insights & Events

- Author, "Alberta Court of Appeal clarifies the scope of pure economic loss in construction negligence claims", BLG Article, October 2026
- Author, "Take Two: Proposed Amendments to Alberta's PPCLA and the PWA (Bill 30)", BLG Article, April 2025
- Author, "Alberta Court of Appeal confirms when a landlord's interest is vulnerable to liens", BLG Article, March 2025
- Author, "Alberta Court of Appeal curtails enforcement of arbitration clauses on third-party beneficiaries", BLG Article, January 2025
- Future of litigation: 5 big ideas to solve the court backlog , BLG Perspective, December 2024
- Author, "No means no: No jurisdiction or bifurcation of PPCLA claims in the Alberta Court of Justice", BLG Article, August 2024
- Author, "Court finds failure investigation records are not privileged", BLG Article, January 2024
- Author, "Alberta Court of Appeal considers the right to appeal stay applications pursuant to the Arbitration Act", BLG Article, September 2022
- Author, "Uncertain terms: Absence of a formal agreement on construction projects", BLG Article, June 2022
- Author, "Alberta Court of Appeal clarifies procedure for appealing an arbitration award", BLG Article, June 2022
- Author, "Transitioning from Alberta's Builders' Lien Act to the PPCLA", BLG Article, March 2022
- Author, "IOT in construction: How the digital transformation will reshape the industry", BLG Article, February 2022
- Author, "Alberta Builders' Lien Act update: It's time to get your house in order", BLG Article, February 2022
- Author, "Alberta's Builders' Lien Act - one step closer to prompt payment and adjudication", BLG Article, June 2021
- Construction and autonomous vehicles — Considerations for increased adoption, BLG Perspective, May 2021
- Author, "Alberta Builders' Lien Act Update – Red Tape Reduction Implementation Act (Bill 62)", BLG Article, May 2021
- Author, "Case Summary: Gary Gurmukh Sales Ltd. v. Quality Goods IMD Inc.," Intellectual Property Institute of Canada Bulletin
- Author, "Case Summary: Maple Leaf Foods Inc. v. Consorzio del Proscuitto di Parma," Intellectual Property Institute of Canada Bulletin
- Author, "Case Summary: MC Imports Ltd. v. Afod Ltd.," Intellectual Property Institute of Canada Bulletin

- Author, “Case Summary: Reynolds Presto Products Inc. v. P.R.S. Mediterranean Ltd.,” Intellectual Property Institute of Canada Bulletin

Beyond Our Walls

Professional Involvement

- Member, Canadian Bar Association
- Member, The Advocates’ Society
- Member, Intellectual Property Institute of Canada (IPIC)
- Member, Calgary Bar Association

Community Involvement

- Director, CKE Community Association
- Volunteer, Legal Education Society of Alberta
- Volunteer, CBA Mentoring Program
- Volunteer, BLG Reads to Kids
- Volunteer, Spina Bifida and Hydrocephalus Association of Southern Alberta

Awards & Recognitions

- Recognized in the 2027 edition (and since 2021) of *The Best Lawyers in Canada* (Construction Law)
- Recognized in the 2026 edition (and since 2025) of *Benchmark Litigation* as a Litigation Star
- Recognized in the 2024 edition (and since 2023) of *The Legal 500 Canada* as a "Next generation partner" (Construction)
- Recognized in the 2024 edition (and since 2021) of *Benchmark Litigation* as a Future Star

Bar Admission & Education

- Manitoba, 2017
- Alberta, 2009

- J.D., University of Calgary, 2008
- M. Phil., University of Cambridge, Emmanuel College, 2004
- B.A. (with distinction), University of Calgary, 2003

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As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers,

intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

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