



## Peter D. Banks

### Partner

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Peter D. Banks is a litigation partner in BLG's Calgary office, practicing complex commercial and construction litigation and arbitration. With over 20 years of experience, Peter has acted on many significant matters in litigation and in domestic and international arbitration, particularly large industrial and infrastructure projects.

Peter has experience in the Court of King's Bench of Alberta, the Court of Appeal, the Supreme Court of Canada, and in arbitration matters under ICC, UNCITRAL, ADRIC rules, as well as *ad hoc* arbitrations. He also has experience in large cases involving contract disputes, constitutional issues, tax issues, shareholder disputes, and injunctions. He has acted in significant cases involving claims of breach of contract, engineering issues, deficiencies, change orders, delay, liquidated damages, warranty, indemnity, and tendering issues on large projects. These matters include a wide variety of infrastructure and industrial projects such as airports, highways, bridges, LRTs, tunnels, pipelines, municipal buildings, concert halls, potash plants, carbon capture plants, sour gas processing facilities, and other industrial plants.

Peter is a former chair of The Advocates' Society's Construction Law Practice Group and the CBA's Civil Litigation South Section. He is currently the co-lead of BLG's Calgary regional appellate group. He is also a contributor to *Arbitration Matters*.

Peter has a BCL (with distinction) from the University of Oxford, and an LLB (with distinction and gold medallist) and BEd (with distinction) from the University of Alberta. He clerked for the Hon. Justice Major at the Supreme Court of Canada and has since appeared at the Supreme Court as counsel on four cases.

## Experience

- Supreme Court of Canada
  - *Reference re Impact Assessment Act*, 2023 SCC 23 - constitutional challenge to the federal *Impact Assessment Act*.
  - *Toronto Star Newspapers Ltd. v. Canada*, 2010 SCC 21 – constitutional challenge under s. 2(b) of the Charter to a statutory publication ban.
  - *Canada v. McLarty*, 2008 SCC 26 – interpretation on the meaning of “expense incurred” and factual non-arm-length dealings under the *Income Tax Act*.
  - *Double N Earthmovers Ltd. v. Edmonton (City)*, 2007 SCC 3 – leading case in Canada on the law of tendering.
  - Prepared and assisted with applications for leave to appeal to the Supreme Court of Canada and numerous responses to applications for leave, e.g. *Agence du revenu du Québec v. Kone inc.*, 2024 SCC No. 41411
  
- Court of Appeal (Selected)
  - *CNOOC Petroleum North America ULC v. ITP SA*, 2024 ABCA 139 – counsel at the Court of Appeal with respect to a privilege claim over records associated with a dispute concerning the design and construction of a pipeline in Canada, in which claims now exceed \$700 million.
  - *CNOOC Petroleum North America ULC v ITP SA*, 2024 ABCA 17 – counsel at the Court of Appeal and successfully applied to add a party to the appeal
  - *Whissell Contracting Ltd. v. Calgary (City)*, 2018 ABCA 204 – counsel at the Court of Appeal and successfully resisted appeal of summary judgment decision on a case arising out of the City of Calgary West LRT Project.
  
- Arbitration Experience (Selected)
  - Confidential Client - Counsel for an international engineering firm in an ICC arbitration arising out a large industrial project located in the Saudi Arabia.
  - Confidential Client - Advising counsel abroad on the law in Canada in relation to Article 34 of the UNCITRAL Model Law.
  - Confidential Client - Counsel for an international engineering firm in an ADRIC arbitration arising out of a progressive design-build project for runway redevelopment at an international airport.
  - Confidential Client - Counsel for a joint venture design-build contractor in a multi-week arbitration hearing with respect to the design and construction of a major highway infrastructure project in Alberta.
  - Confidential Client - Counsel for a construction manager in an arbitration and mediation with respect to the engineering and supply of tanks for an international airport.
  - Confidential Client - Counsel for an EPC contractor in a nine-week arbitration hearing with the owner with respect to issues arising out of the construction of a carbon capture plant.
  - Confidential Client - Counsel for an EPC contractor dispute with electrical subcontractor on a significant project.
  - Confidential Client - Counsel for an owner in a six-week, multi-party UNCITRAL arbitration hearing claiming damages against two contractors and a fabricator in relation to the construction of a sour gas processing plant in northern Canada.

- Litigation Experience (Selected)
  - Counsel for international pipeline design and technology company in a significant case involving a dispute with respect to a claimed failure of a pipeline in Canada and involving allegations of inadequacy of the design and construction, in which claims now exceed \$700 million.
  - Counsel for engineering company in litigation concerning the design of a Self-Generation Plant at a Potash mine in Saskatchewan.
  - Counsel for a Canadian pharmaceutical developer with respect to a worldwide injunction against activist shareholders in the US, Cayman Islands, and Europe in conjunction with US counsel. Injunction granted in March 2024 by the Alberta Court of King's Bench.
  - Counsel for a joint venture design-build contractor in a claim by a subcontractor with respect to a claim for force account work allegedly performed on the construction of an LRT line.
  - Counsel to a joint venture design-build contractor in a claim by a subcontractor with respect to outstanding invoices for concrete work on an LRT project.
  - Counsel in shareholder dispute involving claims for the oppression remedy, breach of contract, and unjust enrichment for over \$100 million.
  - Counsel in a dispute involving a \$20 million claim for inducing breach of contract, interference with economic relations, and unjust enrichment.
  - Counsel in a dispute involving a significant claim for breach of non-competition agreement and non-solicitation agreement given in \$40 million sale of downhole drilling tools company.
  - Regularly advising on construction disputes including on tendering issues, change orders, deficiencies, delay and liquidated damages.

## Insights & Events

- Author, "[Danger of Bifurcated Proceedings](#)," Arbitration Matters, July 2024
- Co-Author, "[Construction Arbitration: Canada](#)," Global Arbitration Review (GAR), May 2024
- Author, "[No arbitrator bias where prima facie merits and credibility determinations made](#)," Arbitration Matters, May 2024
- Author, "Disclosure of investigation reports to the regulators was a waiver of privilege", BLG Article, April 2024
- Author, "[Stay in favour of non-party to arbitration agreement in multi-party construction dispute](#)," Arbitration Matters, April 2024
- Contributor, "Alberta Civil Procedure Handbook 2024 (Juriliber)," Stevenson & Côté, 2024
- Speaker, "Alternative Dispute Resolution: So what is the right 'Alternative'?", Society of Construction Law, December 2023
- Presenter, "SCC's recent decision on the Impact Assessment Act Reference," CBA Civil Litigation section, October 2023.
- Author, "Supreme Court finds Federal Impact Assessment Act Unconstitutional", BLG Article, October 2023
- Presenter, "Evidence in Canada for Cross-Border Disputes and the Implied Undertaking," The Commercial Bar Association, England and Wales (COMBAR), North American Meeting, May-June 2023
- Moderator, "Exculpatory Clauses in Construction Contracts", The Society of Construction Law - Prairies Chapter, Sept 21, 2022
- Author, "GAR Construction Arbitration Know-How", BLG Article, July 2021
- Speaker, "[Navigating Construction Delay & Impact Claims in a Pandemic](#)," *The Advocates' Society*, November 2020
- Co-Author, "Construction Arbitration Canada," *Global Arbitration Review*, June 2020.

- Author, "Timelines for Alberta builders' liens during the COVID-19 state of emergency", BLG Article, April 2020
- Author, "Supreme Court of Canada to Hear Two New Cases on Good Faith in Contract", BLG Article, November 2019
- Co-Author, "Liquidated Damages and the Prevention Principle in Canada," Construction Law Letter, September/October 2019.
- Co-Author, "Canada Chapter on Construction Arbitration," Global Arbitration Review, 2019.
- Presenter, "Recent Developments on Summary Judgment in Canada," The Commercial Bar Association, England and Wales (COMBAR), North American Meeting, May 2019
- Speaker, "Interlocutory Relief," The Commercial Bar Association, May, 2019.
- Author, "Alberta Court Of Appeal Panel Of Five To Hear Summary Judgment Appeals", BLG Article, September 2018
- Co-speaker, "Updates on the Law of Tendering," Canadian Bar Association, Edmonton
- Regular Contributor, Stevenson & Côté Alberta Civil Procedure Handbook (Juriliber)
- Speaker, "International Arbitration," University of Calgary Faculty of Law Lecture
- Speaker, "Update on the Law of Tendering - Last 5 Years of SCC Treatment and Outstanding Current Issues," Canadian Bar Association

## Beyond Our Walls

### Professional Involvement

- Member, Law Society of Alberta
- Member, The Advocates' Society
- Member, Canadian Bar Association
- Member, Society of Construction Law North America
- Member, Calgary Bar Association
- Honorary Member, COMBAR Commercial Bar Association (England)
- Past Member, The Editorial Board of the Alberta Law Review

### Community Involvement

- Volunteer, BLG Reads to Kids
- Past Cub and Beaver Scout Leader, 1st Okotoks Scouts

## Awards & Recognitions

- Professional Recognition
  - The Best Lawyers in Canada® Appellate Practice – since 2024
  - The Best Lawyers in Canada® Construction Law - since 2022
  - The Best Lawyers in Canada® Corporate and Commercial Litigation – since 2021
  - The Canadian Legal Lexpert® Directory (Commercial Arbitration) – since 2024
  - The Canadian Legal Lexpert® Directory (Construction Law) – since 2022
  - Lexpert® Special Edition: Infrastructure – since 2022
  - Benchmark Canada Future Star – since 2021
  - Lexpert® Guide to the Leading US/Canada Cross-border Litigation Lawyers in Canada - "Litigation Lawyer to Watch" (2008)
  - Lexpert's® Rising Stars: Leading Lawyers Under 40 (2008)

- Academic Awards (Selected)
  - Allen & Overy Prize for the Best Performance in Global Comparative Financial Law at the University of Oxford (University of Oxford)
  - Viscount Bennett Scholarship (Law Society of Alberta)
  - Horace Harvey Gold Medal in Law (highest overall grade point average in LL.B. degree) (University of Alberta)
  - Louise McKinney Scholarship (exceptional academic achievement) (University of Alberta)
  - Parlee Scholarship (outstanding merit in both first and second year law) (University of Alberta)
  - Chief Justice S. Bruce Smith Prize (highest standing in first year law) (University of Alberta)

## Bar Admission & Education

- Saskatchewan, 2016
- Alberta, 2003
  
- BCL (with distinction), University of Oxford, 2004
- LLB (with distinction and gold medallist), University of Alberta, 2002
- B.Ed (with distinction), University of Alberta, 1997

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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 725 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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