

CONSTRUCTION & ENGINEERING LAW



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The construction industry is inherently risky. But the risks can be managed. On a successful project, risks are allocated efficiently, and challenges are managed effectively.

Sound legal advice plays an essential role in anticipating, allocating and managing risks. Our Construction & Engineering Group applies our experience with a wide range of construction projects across all sectors of the economy to help clients allocate and manage risks that are specific to their projects.

Our group provides advice at all stages of a project, but at the group's core is a team of lawyers who thrive on the resolution of disputes. This team draws on the experience and expertise of other groups in our firm, who provide advice in health law, administrative and regulatory law, commercial litigation, and real estate, to name a few. The result is a team that is experienced in more than just construction law, and one that understands your business and all the issues at play in the dispute.

We advise large public and private institutions, municipalities, developers, contractors and consultants involved in the full range of disputes relating to construction and engineering. With that said, we have developed expertise working with three core client groups:

1. Parties involved in high stakes litigation arising from complex multi-party disputes.

Multi-party litigation where the stakes are high (whether financial, reputational, or both) presents a unique set of challenges. Our team understands these challenges, having acted as counsel in some of Canada's most significant litigation, including the Mount Polley Mine disaster and a number of multi-billion dollar product liability claims.

2. Design professionals involved in disputes relating to the provision of their professional services.

Design professionals must manage a wide range of risks. They are not always paid, either in full or on time. Copyright issues arise. They can run into difficulty with their regulatory body. They are dragged into construction defect and delay claims. Our team has decades of experience assisting design professionals in resolving the full range of disputes in which they can become involved.

3. Institutions whose projects have not unfolded as anticipated and who are seeking advice with respect to their remedies.

Institutions are often responsible for large public infrastructure projects. Building a hospital, a school, a research facility, or a district energy system is a complex undertaking. When the risks involved with one of these projects materialize, our team provides strategic advice to ensure the project is completed in a timely manner and any losses are recovered.

SERVICES

- Risk management & loss prevention
- Contract drafting & review
- Assisting parties with nuisance claims including bringing or defending injunctions to stop specific activities on construction projects
- Assisting clients in disputes with municipalities and provincial governments in respect to the enforcement of bylaws, statutes and regulations
- Providing advice with respect to environmental and pollution issues which arise during construction projects
- Assisting owners and claimants with builders' liens
- Assisting owners, contractors, and consultants with fee disputes, construction defects and delay claims
- Providing advice in respect to insurance disputes relating to the duty to defend, coverage, and overlapping policies
- Defending architects, engineers and construction professionals accused of professional negligence/breach of contract
- Bringing and defending product liability claims

REPRESENTATIVE WORK

- \$400 million claim for loss of profits, loss of share price and repair costs: This dispute arose from the failure of a tailings storage facility at the Mount Polley Mine in northern British Columbia, one of the largest environmental disasters in Canadian history. The owner of the mine is suing the engineers responsible for designing the tailings storage facility for damages including environmental cleanup costs, loss of profits, and loss of share price.
- \$100 million dispute relating to construction and operation of a chemical plant: The claim relates to representations as its viability, cost and operation.
- \$50 million legal action in the Yukon relating to the development and construction of a large electricity transmission system. We represented an engineering firm in a dispute with the government agency and the contractor.
- \$35 million dollar dispute for delays and extras: This dispute arose from the construction of a large hotel and residential high rise building. We acted for the City of Vancouver in pursuing an injunction and addressing claims and counterclaims for damages in relation to delay.
- \$30+ million claim for delays, extras and outstanding fees: This dispute arose during the construction of a publicly-funded bridge. We acted for a consulting engineering firm. The dispute involved numerous claims and cross-claims: the contractor advanced a claim for delays and extras against the owner; the owner alleged the prime consultant and its sub-consultant, our client, were responsible for the contractor's claim, and our client advanced a claim for additional fees.
- \$20 million legal action for delay and loss of profits arising from the failure of processing equipment at a pulp and paper mill.
- \$10 million dispute in relation to alleged design and construction defects associated with the waste water digesters in a large-scale expansion of a waste water treatment plant: We represented a joint venture of three international engineering firms who were sued in respect to the design.
- Multi-million dollar dispute relating to claims for delays and extras: This dispute arose from the complete failure of a water filtration plant built for a municipality in southeastern British Columbia. We represented a municipality claiming damages resulting from construction delays and deficiencies.
- Multi-million dollar dispute relating to district energy system. We represent an institution in a claim against the suppliers of defective products incorporated into the system.

- \$3 million dispute over costs incurred due to delay arising from the failure of a proposed residential subdivision development in a northern British Columbia community. We acted for an engineering firm involved in the development.
- Represented architects in the first leaky condominium case to proceed to a full trial, and successfully negotiated a discontinuance of the claims against an architect prior to the trial.
- Successfully defended a local structural engineering firm in a case involving design and construction deficiencies in a school.
- Represented a professional architect in an appeal hearing against the Architectural Institute of British Columbia and successfully overturned disciplinary findings.
- Represented a professional engineer in an appeal hearing against the Association of Professional Engineers of the Yukon and successfully overturned disciplinary findings.
- Represented an architectural firm in a case involving a dispute regarding its intellectual property.
- Assisted a municipality with the enforcement of its bylaws relating to damage to its property during construction activity by a developer

RECOGNITIONS

Cameron Elder receives Lexpert® 2018 Rising Star - Leading Lawyer Under 40 award

19 Harper Grey lawyers recognized for litigation expertise by Benchmark Canada®, 2019

Harper Grey receives highest firm ranking as a “Highly Recommended” local litigation law firm in British Columbia from Benchmark Canada® 2014, 2015, 2016, 2017, 2018, 2019

Chris Rusnak recognized as a “Leader in His Field” in the area of Dispute Resolution (British Columbia) by Chambers Canada® 2017

24 Harper Grey lawyers recognized across 13 specialty areas by Best Lawyers® in Canada, 2017

24 Harper Grey lawyers recognized as “Leading Practitioners” by Canadian Legal Lexpert Directory®, 2018

Harper Grey recognized as a "Leading Law Firm" regionally in the area of Dispute Resolution by Chambers Canada®, 2017

Harper Grey receives the TAGLaw Membership Award of Distinction acknowledging 15 years of outstanding service

Martindale Hubbell® recognizes 13 Harper Grey lawyers across 27 practice areas

Harper Grey recognized as a Top 10 Regional Firm in British Columbia, Alberta and the Territories by Canadian Lawyer Magazine, 2012 and 2014

COMMENTARIES

“Incredibly strong skill set, knowledge of litigation and strategic, and keen ability to solve problems.”

— *Benchmark Canada® 2019*

“These lawyers are all subject matter experts, and leader in their field, whose knowledge and skill are matched by their excellent client service.”

— *Benchmark Canada® 2019*

“Steven Abramson is a very solid, conscientious lawyer, becoming a leader in construction and product liability practice.”

— *Benchmark Canada@ 2019*

“Cam Elder is a very knowledgeable lawyer and I trust his assessment and strategy plans to bring the matter to a close.”

— *Benchmark Canada@ 2019*

“This team has provided outstanding legal service. They are prompt, responsive, and communicative. They are strong strategists and provide well researched, experienced legal advice. We work with many firms, and Harper Grey stands out. One member of the team remembers every interaction, memo, pleading and document. They understand a very complicated file and address it with ease and candor. We very much appreciate their strong advocacy.”

— *Benchmark Canada@ 2019*

“The firm is top notch. They have many lawyers specialized in medical defense work who are highly skilled in their legal acumen and practice management, but who also recognize the importance of carrying out their work in a practical, results-oriented manner. They actively look for ways to more efficiently partner with their clients for effective management of the work, while at the same time not weakening their excellent service delivery, their responsiveness, or their effectiveness in the work.”

— *Benchmark Canada@ 2019*

“The firm’s lawyers are principled and have deep integrity. Their work is thorough and of consistent high quality.”

— *Benchmark Canada@ 2019*

“Chris Rusnak is very strong, especially in dealing with engineering and environmental cases.”

— *Benchmark Canada@ 2018*

“Excellent response time, good talent from junior and intermediate to senior levels and reasonable service costs.”

— *Benchmark Canada@ 2018*

“A Vancouver staple, Harper Grey is perhaps the most BC-centric of the “highly recommended” firms, owing largely to the firm’s bench strength in several key areas.”

— *Benchmark Canada@ 2018*

“Chris Rusnak delivers exceptional service on all matters he is involved with on my behalf.”

— *Benchmark Canada@ 2018*

“Every day it seems like I am dealing with someone at Harper Grey, and I always find them professional, courteous and effective.”

— *Benchmark Canada@ 2017*

“Chris Rusnak approaches everything like an engineer, everything is done very thoroughly.”

— *Benchmark Canada@ 2012*

“Harper Grey has niches, and in those niches they are the best of the best.”

— *Benchmark Canada@ 2017*

“Chris Rusnak is an emerging presence in the BC Litigation arena. He is well regarded for his abilities in significant class action disputes, with additional expertise in construction and product liability litigation.”

— *Chambers Canada@ 2017*

“They exceeded all my expectations. I am very satisfied with their work and very happy to recommend them.”

— *Chambers Canada@ 2017*

“A lawyer who refers work to Harper Grey wrote it has ‘great service, a breadth of practice and I have never received a negative comment from referrals to the firm’.”

— *2014 Canadian Lawyer Magazine Stronger than Ever - Top Western & Northern Firms, September 1, 2014*

“Chris Rusnak has a fascinating practice. You can’t exactly call it just ‘product liability’, could you? Although that’s a field he’s tailor-made for.”

— *Benchmark Canada@ 2014*

“The firm has real quality people, and they’ve put three people on the bench there in six years.”

— *Benchmark Canada@ 2015*

“Chris Rusnak is well respected by his peers in the Vancouver bar, and often takes a leadership role in multi-party litigation.”

— *Benchmark Canada@ 2018*

“They are historically known more for insurance but there’s a lot more there than meets the eye.”

— *Benchmark Canada@ 2015*

“I’m working with Chris Rusnak right now on a big case, and I’ve been very impressed with his skills and approach.”

— *Benchmark Canada@ 2016*

“Harper Grey lawyers are ‘dedicated to their clients and focused on finding and implementing practical solutions for them. The lawyers are prompt, intelligent and insightful, and provide a high level of customer service’.”

— *2012 Canadian Lawyer Magazine Embracing Regionalism - Canadian Lawyer’s Top 10 firms from B.C., Alberta, and the Territories are in the Sweet Spot Right Now, October 1, 2012*

“Chris Rusnak is a very smart and capable guy.”

— *Chambers Canada@ 2017*

“Harper Grey is a trial lawyer’s firm, and they’ve got a big deep bench of well-trained litigators.”

— *Benchmark Canada@ 2017*

“Peers call Chris Rusnak ‘bright counsel’ in his work for architect engineers and professional liability defense, which includes a substantial amount of work on the ‘leaky condo’ litigation that plagued Vancouver in the wake of the city’s real estate boom.”

— *Benchmark Canada@ 2012*

“Harper Grey has a stellar pedigree as a litigation firm, and they’ve put a ton of people on the bench, observes one peer.”

— *Benchmark Canada@ 2014*

“Clients are comforted by the firm’s long history in BC. We’re steeped in the region. Our connection is such that we have knowledge of not only the issue itself, but the history of the issue in the province.” – Richard Bereti

— *2012 Canadian Lawyer Magazine@ Embracing Regionalism - Canadian Lawyer’s Top 10 firms from B.C., Alberta, and the Territories are in the Sweet Spot Right Now, October 1, 2012*

Cameron Elder receives prestigious Rising Star - Leading Lawyers Under 40 award,
Lexpert®, 2018
— *Lexpert®, 2018*

LAWYERS



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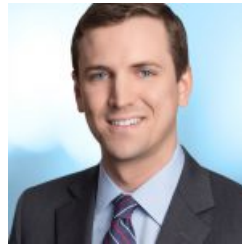
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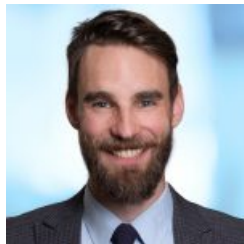
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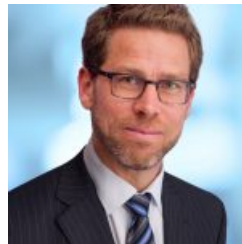
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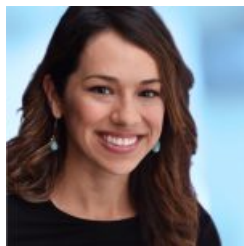


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SELECT ARTICLES + PUBLICATIONS

“Best Practices in Procurement – A Risk Management Perspective” Article
Published In: Business In Vancouver - Association of Consulting Engineering Companies
in BC Supplement - Fall 2015
Written by: Cameron B. Elder

“Letters of Assurance Risks” Article

Published In: Construction Business - Nov/Dec.14

Written by: Cameron B. Elder

SELECT EVENTS + PRESENTATIONS

Cameron Elder to present at Vancouver ACEC-BC YPG Breakfast Seminar

Presentation Date: 07.Apr.17

Presented by: Cameron B. Elder

Cameron Elder repeats co-presentation of “Loss Prevention Case Study Workshop” in Victoria

Presentation Date: 22.Mar.17

Presented by: Cameron B. Elder

Cameron Elder co-presents Loss Prevention Case Study Workshop

Presentation Date: 16.Mar.17

Presented by: Cameron B. Elder

Cameron Elder co-presents with Rob McLeod at Contract Basics for Design Professionals Seminar

Presentation Date: 24.Nov.16

Presented by: Cameron B. Elder

Chris Rusnak leads session on Counsel’s Role in Document Discovery at Law Society’s Inns of Court Program

Presentation Date: 8.Dec.15

Presented by: Christopher M. Rusnak*

Cameron Elder to present at BCRIMA Member Luncheon on February 19, 2014

Presentation Date: 19.Feb.14

Presented by: Cameron B. Elder

Cameron Elder to present at BCRIMA Member Luncheon

Presentation Date: 19.Feb.14

Presented by: Cameron B. Elder

Chris Rusnak to present seminar to Consulting Engineers of BC

Presentation Date: 15.Nov.11

Presented by: Christopher M. Rusnak*

Christopher Rusnak to speak at seminar addressing Legal Issues for Building Envelopes

Presentation Date: 28.Jan.11

Presented by: Christopher M. Rusnak*

Christopher Rusnak to present on “Contract Issues for Engineers”

Presentation Date: 12.Mar.10

Presented by: Christopher M. Rusnak*

SELECT NEWS

We are excited to welcome new associate, Caryna Jiwani

Related to: Caryna Jiwani - 27.May.20

24 Harper Grey Lawyers recognized by Benchmark Canada® 2020

Related to: H. Roderick Anderson*, Richard E. Bereti*, Salman Y. Bhura*, Guy P. Brown, QC*, William S. Clark*, Michael J. Hewitt*, Kimberly J. Jakeman*, Rose Keith, QC*, Jonathan D. Meadows*, David W. Pilley, Una Radoja*, Christopher M. Rusnak*, Raj Samtani*, John P. Sullivan*, Michael G. Thomas*, Nigel L. Trevethan*, Abigail C.F. Turner*, Jennifer R. Woznesensky - 13.Apr.20

Harper Grey shortlisted as BC Law Firm of the Year by Benchmark Canada 2020

14.Feb.20

Christopher Rusnak to be inducted as Fellow of Canadian College of Construction Lawyers

Related to: Christopher M. Rusnak* - 08.Jan.20

Harper Grey receives 48 rankings from Best Lawyers® in Canada 2020

Related to: Sandra Abley, JD, CFP®, TEP, Steven Abramson*, Owais Ahmed, Bryan G. Baynham, QC, Richard E. Bereti*, Salman Y. Bhura*, Guy P. Brown, QC*, William S. Clark*, Prentice Durbin*, Michael J. Hewitt*, Kimberly J. Jakeman*, Steven G. Lukas*, Maureen L.A. Lundell, QC, William D. MacRae*, Derek Mah*, Jonathan D. Meadows*, David W. Pilley, Una Radoja*, Christopher M. Rusnak*, Raj Samtani*, John P. Sullivan*, W. Sean Taylor, Michael G. Thomas*, Nigel L. Trevethan*, Abigail C.F. Turner*, Henning W. Wiebach*, Jennifer R. Woznesensky, Lara C. Zee - 21.Aug.19

2019 Canadian Legal Lexpert® Directory recognizes 16 Harper Grey lawyers as “Leading Practitioners”

Related to: Steven Abramson*, H. Roderick Anderson*, Richard E. Bereti*, Guy P. Brown, QC*, William S. Clark*, Cameron B. Elder, Michael J. Hewitt*, Kimberly J. Jakeman*, Jonathan D. Meadows*, David W. Pilley, Christopher M. Rusnak*, Raj Samtani*, W. Sean Taylor, Nigel L. Trevethan*, Abigail C.F. Turner*, Lara C. Zee - 06.May.19

Steven Abramson receives Benchmark Canada® 2019 “Future Star” ranking

Related to: Steven Abramson* - 09.Apr.19

Cameron Elder receives Benchmark Canada® 2019 “Future Star” ranking

Related to: Cameron B. Elder - 05.Apr.19

Harper Grey supports technical innovation through sponsorship of ACEC-BC’s Awards for Engineering Excellence

Related to: Cameron B. Elder, Christopher M. Rusnak*, Adam R. Way - 01.Apr.19

Benchmark Canada® 2019 recognizes 19 Harper Grey lawyers for litigation expertise

Related to: Richard E. Bereti*, Salman Y. Bhura*, Guy P. Brown, QC*, William S. Clark*, Michael J. Hewitt*, Kimberly J. Jakeman*, Jonathan D. Meadows*, David W. Pilley, Michael G. Thomas*, Nigel L. Trevethan*, Abigail C.F. Turner*, Jennifer R. Woznesensky, Steven Abramson*, Cameron B. Elder, Una Radoja* - 27.Mar.19

Jonathan Meadows elected as Harper Grey’s next Managing Partner

Related to: Jonathan D. Meadows* - 07.Dec.18

Cameron Elder receives Lexpert ® 2018 Rising Star – Leading Lawyer Under 40 award

Related to: Cameron B. Elder - 13.Nov.18

30 Harper Grey Lawyers recognized by Best Lawyers® in Canada 2019

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Harper Grey welcomes five new Associates

Related to: Andrew Tang, Kirsten Rogerson, Paul Saunders, Drummond Lambert, Erika Decker - 30.May.18

Harper Grey welcomes new associate, Natalia Tzemis

Related to: Natalia V. Tzemis - 15.Feb.18

Best Lawyers® in Canada 2018 recognizes 27 Harper Grey Lawyers

Related to: Bryan G. Baynham, QC, Richard E. Bereti*, Salman Y. Bhura*, Guy P. Brown, QC*, William S. Clark*, Prentice Durbin*, Kimberly J. Jakeman*, James M. Lepp, QC, Steven G. Lukas*, Maureen L.A. Lundell, QC, Derek Mah*, L. Neil Matheson, QC*, Jonathan D. Meadows*, Barbara J. Norell, QC, David W. Pilley, Christopher M. Rusnak*, Raj Samtani*, John P. Sullivan*, W. Sean Taylor, Michael G. Thomas*, Nigel L. Trevethan*, Abigail C.F. Turner*, Henning W. Wiebach*, Jennifer R. Woznesensky, Lara C. Zee - 22.Aug.17

Steven Abramson and Cameron Elder join Harper Grey partnership

Related to: Cameron B. Elder, Steven Abramson* - 02.Feb.17

Martindale-Hubbell® recognizes 14 Harper Grey lawyers

Related to: Bryan G. Baynham, QC, John B. Brown*, Guy P. Brown, QC*, Karen F. Douglas*, Steven G. Lukas*, Maureen L.A. Lundell, QC, William D. MacRae*, L. Neil Matheson, QC*, Barbara J. Norell, QC, David W. Pilley, Terrence L. Robertson, QC, Abigail C.F. Turner*, Henning W. Wiebach* - 30.Jan.17

Harper Grey shortlisted in four Benchmark Canada® 2017 Award categories

Related to: Kimberly J. Jakeman*, Christopher M. Rusnak* - 09.Jan.17

Harper Grey recognized in Chambers Canada 2017 Guide

Related to: Christopher M. Rusnak*, John P. Sullivan*, Richard E. Bereti* - 10.Jun.16

Harper Grey welcomes three new Associates – Kelsey Rose, Jackson Doyle, and Dionne Liu

Related to: Dionne H. Liu, Jackson C. Doyle, Kelsey A. Rose - 25.May.16

Adam Way joins Harper Grey's Environmental, Commercial and Construction Groups

Related to: Adam R. Way - 10.Jun.15

Harper Grey welcomes three new Associates – Kara Hill, Robin Bennett, and Kimberly Fenwick

Related to: Kara L. Hill - 13.Jun.13

Eight Harper Grey lawyers recognized by Best Lawyers in Canada 2013

Related to: Bryan G. Baynham, QC, Christopher M. Rusnak*, James M. Lepp, QC, Raj Samtani*, H. Roderick Anderson*, L. Neil Matheson, QC*, W. Sean Taylor - 22.Aug.12

Seven Harper Grey lawyers recognized by Best Lawyers in Canada

Related to: Bryan G. Baynham, QC, Christopher M. Rusnak*, James M. Lepp, QC, H. Roderick Anderson*, L. Neil Matheson, QC*, W. Sean Taylor - 19.Sep.11

Harper Grey welcomes new Associate, Steve Abramson

Related to: Steven Abramson* - 01.Sep.11