



MICHAEL J.. HEWITT*

Michael is a proven litigator with 27 years of demonstrated performance as counsel in complex litigation within British Columbia and elsewhere in Canada.

MICHAEL J.. HEWITT*

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EXPERTISE

Commercial Litigation
Professional Regulation
White Collar Crime
Directors & Officers Liability
Insurance Law
Securities Regulation & Litigation
Mediation, Arbitration & Conflict Management
Criminal Law

LITIGATION

Michael is primarily dedicated to representing his corporate and individual clients in litigation.

With broad experience in civil, criminal, administrative and constitutional law cases, including a great deal of trial and appellate work, he represents the interests of those clients in formal disputes involving professional liability and discipline, civil fraud and conspiracy, as well as shareholder oppression, corporate and directors' misconduct, insurance coverage and bad faith, securities regulation, bankruptcy, contract, real estate, strata and construction disputes, and other commercial litigation.

He regularly conducts litigation in all levels of the British Columbia court system, and has appeared as counsel in the Alberta and Ontario courts, as well as the Supreme Court of Canada, regulatory tribunals, administrative boards, private arbitrations and mediations. His record includes a long list of successful results in both judge and jury trials, tribunal rulings and appeals, as well as negotiated settlements.

MEDIATION AND ARBITRATION

Michael also is retained by parties to such disputes and requested to intervene as mediator or arbitrator, and he is active in those roles within confidential business and sport disputes.

PROFESSIONAL DEVELOPMENT

Out of court, Michael leads a team of thoughtful and dedicated lawyers, paralegals and staff who focus on practical results and client service.

Since the 1990s, Michael has dedicated considerable time to professional development and training for the legal and accounting professions, the insurance industry and fraud investigators. He regularly provides instruction and commentary to such groups about current legal issues affecting their areas of expertise, and provides legal and strategic advice on an ongoing basis.

EXPERIENCE

EARLY HISTORY

Michael spent his earliest days in the legal profession apprenticing at the Hewitt and Hewitt law firm in Ottawa, and later was mentored as a litigator by leading members of the legal profession in the Vancouver Department of Justice, the Court of Appeal for Ontario and an international law firm in London, England. He then moved into private practice in 1993.

LITIGATION EXPERIENCE

The vast majority of litigated disputes in Canada are settled between private parties. However, most reasonable settlements are made to happen in the face of a real and looming prospect of litigation. Michael has extensive experience in both settings, and shifts seamlessly from one to the other as circumstances dictate.

MEDIATIONS

Michael has decades of experience as counsel in successful commercial mediations involving contract disputes, shareholder oppression, professional liability and claims involving fraud and crime. He also practices dispute resolution as a mediator. All mediations are completely confidential.

HISTORICAL JUDGMENTS

Michael has been involved in hundreds of litigated cases, leading to judgments in the courts. Set out below are some publicly-reported judgments in which Michael was involved as counsel, listed by category, going back to 1993.

CIVIL FRAUD, INJUNCTION, CONSPIRACY AND CONVERSION LITIGATION

Counsel for plaintiffs and defendants in hundreds of lawsuits involving allegations of fraud and conspiracy, and remedies obtained by way of Mareva Injunctions, Anton Piller orders and civil execution proceedings. Litigation in this field often intersects with insolvency and bankruptcy proceedings. Some examples:

- 2019-2020 – counsel to resource owner in fraudulent conversion claim.
- 2019 – defence counsel in Mareva Injunction proceedings related to alleged fraudulent billing scheme.
- [2017 ABCA 316](#) – appeal in fraud action, in which the Alberta court overturned multiple Mareva Injunctions and Anton Piller orders.
- [2016 BCSC 140](#) – Mareva Injunction in fraudulent conversion claim.
- (2016) – counsel for Chinese national pursued by Chinese bank to British Columbia by enforcement and injunction proceedings.
- Appointed by the Supreme Court of British Columbia to perform the role of supervising solicitor for Anton Piller order executions.
- [2016 BCSC 1108](#) – judgment in conversion against participants in 2011 Vancouver riot.
- (2015) – jury award of \$200,000 punitive damages plus damages and costs in theft of electricity trial.
- [2014 BCSC 1419](#) – successful civil fraud action against company’s accountant.
- [2010 BCSC 338](#), [2011 BCSC 1106](#) and [2012 BCSC 998](#). Judgments in three related trials for conversion and conspiracy against many defendants in stolen vehicle scheme, with punitive damage awards. Leading cases in BC establishing principles associated with civil fraud and conspiracy.
- [2009 BCSC 1051](#) and [2011 BCCA 51](#) – judgment for an insurer, following a lengthy trial of conspiracy and vehicle conversion allegations, awarding special damages, general damages, punitive damages and costs against several participants in a stolen-vehicle scheme. Related appeal establishing the scope of joint tortfeasor liability in conversion.
- *ICBC v. Faris et al.* (2006) – \$3.5 million jury award of punitive damages in staged

accident case.

SHAREHOLDER OPPRESSION AND OTHER CORPORATE LITIGATION

Acted for and against shareholders, directors and companies in litigation involving oppression claims and derivative actions involving allegations of corporate misconduct.

- 2019 – counsel for shareholders in oppression arbitration.
- 2018 BCSC 881 – oppression petition dismissed, and with no leave granted to the petitioner to proceed to trial or to pursue a derivative action.
- 2014-2015 – shareholder oppression and directors' misconduct claims involving employee-owned forestry company.
- [2012 BCSC 829](#) – successful civil fraud and corporate oppression action against company's president

PROFESSIONAL LIABILITY AND DISCIPLINE – ACCOUNTANTS

Acted for professionals in dozens of cases leading to successful and confidential outcomes when facing discipline by regulatory bodies governing Chartered Professional Accountants, and previously CAs and CGAs.

In civil litigation, Michael has acted for Chartered Professional Accountants and other professionals in defence of hundreds of lawsuits. Most have been settled and others were successfully defended in court. Some published decisions:

- 1999-2020 – lead defence counsel in > 100 professional liability claims against CAs, CGAs and CPAs.
- [2012 BCSC 1234](#) – action against auditor related to Bear Mountain investments dismissed professional negligence action against accountant related to fraudulent conveyance dismissed based on issue estoppel.
- [2008 BCSC 328](#)– dismissal of claim against chartered accountant alleging inadequate advice in respect of the valuation of a logging business in a divorce settlement.
- [2007 BCSC 1081](#) – taxation related to bankrupt estate in respect of bankruptcy arising out of Eron Mortgage Corporation's affairs.
- [2006 BCSC 89](#) – third party claim against corporate directors in oppression action.

REGULATORY, CRIMINAL AND CHARTER CASES

Representation of the Crown in prosecutions, as well as persons and corporations charged with offences or administration infractions.

- Defence of regulatory prosecutions involving alleged environmental offenses.
- Administrative proceedings involving alleged gaming infractions.
- Litigation involving allegedly unlawful use of criminal search warrant powers in the regulatory context.
- Litigation involving allegations of Charter infringement against crown corporations, related to search and seizure and other powers.
- [2008 BCSC 1204](#) – defendants in an insurance fraud trial alleged various breaches of the Charter of Rights by investigators. Allegations of racial profiling were dismissed. Applications to exclude real evidence based on allegations of unreasonable search and seizure were dismissed.
- [BCSECCOM 645](#) (findings); [2007 BCSECCOM 773](#) (decision) – defence of charges before the B.C. Securities Commission, mostly dismissed.
- [2002 SCC 61](#) – Supreme Court of Canada decision striking down provisions of the Criminal Code respecting search of law offices pursuant to warrant. Junior counsel.
- (20 April, 1998), Surrey 65381 (B.C. Prov. Ct.) – Crown's trial counsel in constitutional challenge to the validity of the criminal prohibition on simple possession of

marihuana. Application dismissed and decision later upheld by Supreme Court of Canada.

- (18 February, 1998), Vancouver CC970509 (B.C.S.C.) – Crown’s trial counsel in constitutional challenge to the validity of the criminal prohibition on possession of marihuana for the purpose of trafficking. Application dismissed and decision later upheld by Supreme Court of Canada.
- (30 March, 1994), Vancouver CA016527 (B.C.C.A.) – Appeal decision regarding Crown’s disclosure obligations in relation to third-party therapist’s records.
- Prosecution of federal offences related to taxation, bankruptcy, fisheries and transportation.

INSURANCE LITIGATION

Hundreds of lawsuits involving allegations of insurance fraud and insurer’s bad faith, and related insurance coverage disputes.

- 1999 – 2020 – Represented insurers in dozens of insurance fraud trials before judges and juries.
- 2015 BCSC 631 – successful appeal of coverage award based on legal test for standard of proof in an insurance coverage claim.
- 2014 BCSC 797 – insurance claim dismissed at trial based on fraud.
- 2012 BCCA 493 – interpretation of the limitation period pursuant to s. 17 of the *Insurance (Motor Vehicle) Act*.
- 2011 BCSC 878 – dismissal of insurance coverage claim based on misrepresentations of leased status of vehicles.
- 2010 BCSC 662 – insurance contract interpretation – Dismissal of claim by an insured for coverage.
- 2004 BCCA 498 – appeal from a decision striking out a claim by an insured person that her insurer owed a duty to provide advice to her regarding coverage. Appeal dismissed.
- 2003 BCSC 677 – successful appeal defining the scope of ICBC’s liability in its capacity as registrar of motor vehicles.

CREDENTIALS

EDUCATION

- Qualified Arbitrator, 2014
- Ontario Court of Appeal, Law Clerk, 1991-1992
- University of Victoria, Juris Doctor, 1991
- Queen’s University, Bachelor of Commerce (Finance), 1988

BAR ADMISSIONS

- British Columbia, 1993

LEADERSHIP

- Michael is an active community volunteer and board member
- Author of many published articles on legal practice, professional liability, fraud litigation and other legal issues
- Regular speaker at legal, insurance industry and accounting professional seminars
- Presenter, *Risk Management for Accountants*, 2010-2019, Chartered Professional Accountants of B.C.
- Presenter, *Expert Evidence*, Canadian Institute
- Presenter, *Arbitrations*, Arbitrator Selection, Continuing Legal Education

- Presenter, *Video Surveillance*, WorkSafe BC Inter-Agency Forum
- Presenter, *Claims in Fraud*, Association of Certified Fraud Examiners
- Author, *Legal Training Manual*, 2012, Private Investigators Association of British Columbia
- Presenter, *Defence of Fraudulent Claims*, Canadian Defence Lawyers
- Moot Court and Advocacy Instructor, The Law Society of British Columbia
- Advocacy Instructor, University of British Columbia
- Legal Ethics Instructor, University of British Columbia

MEMBERSHIP

- Member, BC Advisory Committee of the Advocates Society
- Member, The Law Society of British Columbia
- Member, Canadian Bar Association, BC Branch
- Member, Association of Certified Fraud Examiners
- Member, Private Investigators of B.C.
- Member, British Columbia Regional Advisory Committee of the Advocates' Society

RECOGNITIONS

Named as a "Leading Lawyer" in the area of General Commercial Litigation (Regional - British Columbia) by Chambers Canada®, 2019-2020

Rated as a "Repeatedly Recommended Leading Practitioner" in the area of Professional Liability, Commercial Insurance and Professional Liability by Canadian Legal Lexpert Directory®, 2018-2020

Recognized as a "Local Litigation Star" in British Columbia in the area Insurance Law by Benchmark Canada®, 2018-2020

Recognized as a "Leading Lawyer" in the area of Professional Malpractice Law by Best Lawyers® in Canada, 2019-2020

Recognized as a "Local Litigation Star" in British Columbia in the area of General Commercial Benchmark Canada®, 2018-2020

Recognized as a "Leading Lawyer" in the areas of Corporate Commercial Litigation and Insurance Law by Best Lawyers® in Canada, 2020

COMMENTARIES

"Michael Hewitt is known around Vancouver as excellent counsel. He has done a fair number of trials."

— *Benchmark Canada® 2018*

"Superb litigation skills."

— *Chambers Canada® 2020*

RECOGNITION

Recognized as a "Litigation Star" in British Columbia in the areas of General Commercial and Insurance by Benchmark Canada®, 2017

Ranked as a "Recognised Practitioner" in the area of Litigation: General Commercial by Chambers Canada®, 2018

SELECT EVENTS + PRESENTATIONS

Michael Hewitt presents to CBABC Insolvency Section on Mareva Injunctions

Presentation date: 17.Sept.19

Presented by: Michael J. Hewitt*

Michael Hewitt presented at the WorkSafeBC Inter-Agency Forum

Presentation date: 03.Dec.18

Presented by: Michael J. Hewitt*

Michael Hewitt and Jessica Wilson co-present at Private Investigators Association of BC Conference

Presentation date: 17.Nov.18

Presented by: Michael J. Hewitt*

Harper Grey lawyers celebrate entrepreneurship at the 2018 EY Entrepreneur of the Year Gala

Event date: 25.Sept.18

Presented by: Steven G. Lukas*, John P. Sullivan*, Roselle P. Wu, Michael J. Hewitt*, Salman Y. Bhura*, Scott J. Marcinkow

Michael Hewitt to present on Mareva Injunctions and Anton Piller Orders at Trial Lawyers Association of BC seminar

Presentation Date: 20.Apr.18

Presented by: Michael J. Hewitt*

SELECT NEWS

2020 Canadian Legal Lexpert Directory Recognizes 19 Harper Grey Lawyers as “Leading Practitioners”

Related to: Steven Abramson*, Joel A. Morris, H. Roderick Anderson*, Bryan G. Baynham, QC, Richard E. Bereti*, Guy P. Brown, QC*, William S. Clark*, Michael J. Hewitt*, Kimberly J. Jakeman*, Scott J. Marcinkow, Jonathan D. Meadows*, David W. Pilley, Christopher M. Rusnak*, Raj Samtani*, W. Sean Taylor, Abigail C.F. Turner*, Nigel L. Trevethan*, Jennifer R. Woznesensky, Lara C. Zee - 22.Apr.20

Harper Grey Lawyers Recognized as Litigation Stars 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, Steven Abramson*, Scott J. Marcinkow, Joel A. Morris, Roselle P. Wu, Kim J. Yee - 14.Apr.20

Harper Grey recognized as a Leading Law Firm in the area of General Commercial Litigation by Chambers Canada 2020

Related to: Michael J. Hewitt*, John P. Sullivan*, Christopher M. Rusnak* - 19.Sep.19

Eight Harper Grey Lawyers Ranked as Top Litigators in Their Field by Chambers Canada 2020

Related to: H. Roderick Anderson*, William S. Clark*, Richard E. Bereti*, Guy P. Brown, QC*, Kimberly J. Jakeman*, Michael J. Hewitt*, John P. Sullivan*, Christopher M. Rusnak* - 19.Sep.19

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

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

Six Harper Grey lawyers recognized by Chambers Canada 2019

Related to: Richard E. Bereti*, Guy P. Brown, QC*, Kimberly J. Jakeman*, Michael J. Hewitt*, John P. Sullivan*, Christopher M. Rusnak* - 21.Sep.18

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

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19 Harper Grey Lawyers recognized for litigation expertise by Benchmark Canada® 2018

Related to: H. Roderick Anderson*, Bryan G. Baynham, QC, Richard E. Bereti*, Salman Y. Bhura*, Guy P. Brown, QC*, Karen F. Douglas*, Michael J. Hewitt*, Kimberly J. Jakeman*, James M. Lepp, QC, Jonathan D. Meadows*, David W. Pilley, Christopher M. Rusnak*, John P. Sullivan*, Michael G. Thomas*, Nigel L. Trevethan*, Abigail C.F. Turner*, Jennifer R. Woznesensky, Cameron B. Elder, Una Radoja* - 19.Apr.18

2018 Canadian Legal Lexpert® Directory recognizes 24 Harper Grey lawyers as “Leading Practitioners”

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Michael Hewitt and Tricia Milne join Harper Grey

Related to: Michael J. Hewitt*, Tricia Milne - 02.Jan.18