



DAVID E. GRUBER, FCI Arb

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PRACTICE AREAS

Commercial Litigation
 Bankruptcy, Insolvency & Restructuring
 Arbitration & Mediation
 Class Action Litigation

PROFILE

David Gruber is a Partner and practises in the areas of corporate/commercial litigation, arbitration, restructuring and insolvency, and class actions. He has appeared regularly in the superior and appellate courts of British Columbia and Ontario and in the Federal Court, and has acted in several reported cases. As well, David has significant experience in both international and domestic arbitration and other alternative dispute resolution processes, and in negotiating and advising on dispute settlements.

David's corporate/commercial litigation experience has encompassed shareholder and partnership disputes (including oppression claims), breach of contract cases, securities matters and allegations of breach of fiduciary duty. He has acted for corporations of all sizes, professional firms, governments, public and quasi-public institutions and for private individuals. In the area of restructuring and insolvency, David has acted for monitors, trustees and receivers, as well as for creditors and other affected parties, primarily in large-scale Companies' Creditors Arrangement Act and Bankruptcy and Insolvency Act matters.

David did an undergraduate degree in architecture and worked for a time on the editorial staff of an architectural magazine before entering law school. Following graduation, he articulated and practised with a prominent litigation boutique in Victoria, British Columbia, which specializes in constitutional/administrative and commercial litigation. He took time out of

his practice to do a master's degree in law at the University of Cambridge in 1998. David first joined the Vancouver office of a national firm in 1999. Before rejoining his former firm he practised for three years with a leading Toronto commercial litigation boutique. In 2010 David was awarded a diploma in International Commercial Arbitration and became a fellow of the Chartered Institute of Arbitrators. He moved to Farris in early 2010.

MEMBERSHIPS &
RECOGNITION

- Member of the Insolvency Institute of Canada.
- Fellow of the Chartered Institute of Arbitrators.
- Member of the Western Canada Commercial Arbitration Society.
- Chair of the Lex Mundi Insolvency, Bankruptcy & Restructuring Group.
- Director of the Turnaround Management Association, Northwest Chapter.
- Listed in Benchmark Canada as a Local Litigation Star.
- Listed in Best Lawyers.
- Listed in Who's Who Legal: Canada.
- Listed in Who's Who Legal Restructuring & Insolvency 2016

REPRESENTATIVE
TRANSACTIONS

Representative transactions include the following:

- Represented Sanum Beteiligungsgesellschaft MbH in its application to strike the Respondent's Petition Response. (SCBC Action No. S147464)
- Represented the Onni Group in the restructuring of Marine Drive Properties (SCBC Action No. S150042) and Colwood City Centre LP (SCBC Action No. S137743)
- Represented the secured creditor in the receivership and stalking horse bid proceedings in respect of Triton Logging. (SCBC Action No. S147068)
- Represented League Assets Corp. in its CCAA proceeding. (SCBC Action No. S137743)
- Represented Steels Industrial Products Inc. in its CCAA proceeding. (SCBC Action No. S122514)
- Represented Streetwise Capital Partners Inc. in the CCAA restructuring of Blackburn Developments Ltd. (SCBC Action No. S111150)
- Represented a group of crossholding Noteholders in the Catalyst Paper CCAA. (SCBC Action No. S120712)
- Represented the Client, Kirsten Mide-Wilson regarding an assessment of Solicitor's costs. (2011 BCSC 1440, 2013

BCSC 374 & 2013 BCCA 559)

- Represented the City of Vancouver in the receivership of the Olympic Village development.
- Represented the Green Party of Canada in the successful defence of a defamation claim in the Court of Appeal. (2011 BCCA 286)
- Represented Timberwest Forest Corp. in a successful municipal property tax challenge against the City of Campbell River worth approximately \$1 million per year. (2009 BCSC 1804)
- Acted for St. Jude Medical Inc. achieving Court approval for the settlement of a class action regarding mechanical heart valves. (2009 BCSC 1651)
- Represented Lehman Brothers Holdings Inc. in the restructuring of \$70 million in debt in the insolvency of Jung Developments Inc.
- Represented the Cowichan Valley Regional District in the successful defence of a trial in which \$100 million had been claimed as damages for breach of contract and economic torts by a commercial composting operation. (2009 BCSC 53)

RECENT
PUBLICATIONS

Recent publications include the following:

- Author – “Addressing the Vanishing Trial – A Historical Perspective”, *The Advocates Journal*, Vol. 32, No. 4 Spring 2014
- Author – “Expert Witness Immunity”, *Professional Liability and Discipline Litigation*, Volume XV, No. 4, 2013
- Author – “Paved With Good Intentions – Explanations of Bona Fides and Mitigation in Disciplinary Proceedings”, *Professional Liability and Discipline Litigation*, Volume XIV, No. 4, 2012
- Author - “Judicial Review Advocacy in the Post-Dunsmuir Era”, *Canadian Journal of Administrative Law & Practice*, Volume 22, Part 3, October 2009.
- Co-author - “Canada”, *The Asia-Pacific Arbitration Review 2009: A Global Arbitration Review Special Report*, pp. 26-28, December 2008.
- Author – “Class Actions, the Oppression Remedy, Negligence, and Breach of Fiduciary Duty Claims”, *Shareholders’ Remedies, Continuing Legal Education Society of British Columbia*, Vancouver, November 2006
- Author – “Certification – Constructive Trust Claims: an Appropriate Vehicle to Avoid the Strictures of Aggregating Damages?”, 2006 V(2) *Class Action Journal*

- Co-Author – “A New Exception for Apportioning Liability in Negligence”, 2006, 31(4) The Advocates’ Quarterly 493
- Co-Author – “The Canadian Strike Suite: Coming Soon to a Client Near You?”, 2006, 64(4) The Advocate 505

RECENT
PROFESSIONAL
ACTIVITIES

Recent professional activities include the following:

- Presenter – “Direct Examination 2016”, CLE, Vancouver, British Columbia, April 15, 2016
- Presenter – “Beyond the Billable Hour - Issues with Time Based Fees and Possible Alternatives”, CBA Insolvency Subsection Meeting, April 7, 2015.
- Panelist – Turnaround Management Association, Cross-border Conference, Banff, Alberta, September 11-13, 2014.
- Chair - Lex Mundi International Insolvency Practice Group, appointed Fall 2013 for 2 year term and extended for an additional year.
- Panelist – “True Appeal or De Novo Hearing? Seeking Clarity in Challenges to Insolvency Decisions”, Annual Review of Insolvency Law Conference, Vancouver, British Columbia, February 21, 2014
- Chair – “Right Capital Structure for Acquisition and Growth” ACG Vancouver, Vancouver, British Columbia, April 9, 2013
- Presenter – “What In-House Counsel Need to Know” Farris Client Seminar, Vancouver, British Columbia, February 6, 2013
- Presenter – “Acquiring Claims in Restructurings: Good Faith or Self-Interest” Insolvency Law Section Meeting, Vancouver, British Columbia, September 19, 2012
- Presenter – Turnaround Management Association, Cross-border Conference, Vancouver, British Columbia, September 7, 2012
- Presenter - “Stalking Horse Bids in Insolvency,” 2nd Annual Mergers & Acquisitions, Continuing Legal Education BC, Vancouver, British Columbia, June 3, 2010
- Presenter – “Presenting Your Commercial Case at Trial,” Commercial Litigation 2009, Continuing Legal Education BC, Vancouver, British Columbia, September 10, 2009.
- Presenter - “Cross-Border Insolvency - International and Canadian Developments,” ABA Section of Business Law - 2009 Spring Meeting, Vancouver, British Columbia, April 16, 2009.
- Co-presenter - “Westcoast Landfill v. CVRD, 2009 BCSC 53,” Canadian Bar Association (BC), Municipal Law Section, Vancouver Section Meeting, Vancouver, British

Columbia, April 16, 2009.

- Speaker - “Enterprise Wide Data Mapping: Attention CIOs - Collaboration between Counsel and IT,” Electronically Stored Information and Electronic Discovery Conference, Vancouver, British Columbia, March 17, 2008; also spoke at the INSIGHT Conference: Electronically Stored Information and Electronic Discovery, Calgary, Alberta, November 28, 2008.
- Speaker - “Commercial Insolvency & Restructuring,” INSIGHT Conference, Vancouver, British Columbia, November 5, 2008.
- Speaker - “Canadian Insolvency Law Reform,” Inter-Pacific Bar Association 18th Annual Conference, Los Angeles, California, April 29, 2008.
- Speaker - “The Rules of the Game Affirmed: Lessons Learned from the Vancouver Canucks Trial”, Blakes Client Seminar, Vancouver, British Columbia, March 11, 2008.
- Speaker - “Civil Litigation Conference,” Continuing Legal Education, Vancouver, British Columbia, November 22-23, 2007.
- Speaker - “Potential Pitfalls of Mandatory Case Management - The Ontario Experience,” Litigation Conference, Continuing Legal Education, Vancouver, British Columbia, November 11, 2007.
- Speaker - “Constructive Trust Claims: An Appropriate Vehicle to Avoid the Strictures of Aggregating Damages?” at Osgoode’s 4th National Symposium on Class Actions, Toronto, Ontario, April 25, 2007.

EDUCATION

Fellow of the Chartered Institute of Arbitrators (2010)
 Called to the Ontario Bar (2000)
 Called to the British Columbia Bar (1997)
 University of Cambridge (LL.M., 1998)
 University of Victoria (J.D., 1996)
 McGill University (B.Sc. Arch., 1992)