

Karen Martin

Partner



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Vancouver

D +1 604 691 6455

karen.martin@dentons.com

Overview

Karen is a partner who practices in the areas of Construction, Infrastructure and PPP and Litigation and Dispute Resolution and currently sits on the Canada Region Board and the Firm's Global Board. Based on deep experience and the latest developments in the law, she provides strategic advice to clients to minimize legal risk during procurement and construction. She advises on the preparation of construction contracts to assist in the avoidance of disputes, and during the construction phase she helps clients to develop pro-active solutions to project issues. When disputes arise, she negotiates resolutions, and she acts as counsel in the mediation, arbitration and litigation of construction claims, including on P3, mining and energy sector projects.

Karen's experience as counsel on large construction trials in the last three decades allows her to quickly understand the technical aspects of a construction claim, and to provide creative advice as to the appropriate methods to efficiently resolve disputes. She has extensive experience in disputes involving tenders, RFPs, construction contracts, builders' liens, engineering issues, and negligence claims involving architects and engineers.

The author of many publications on topics of interest to the construction industry, Karen is also a frequent speaker on complex litigation and construction issues including procurement, builders' liens, delay claims, construction disputes, and settlement of multi-party litigation.

Experience

- **Knight Piésold Ltd:** Advising as senior counsel in defending professional engineer against allegations related to tailings dam failure at Mount Polley Mine in 2014 (*Imperial Metals Corporation v. Knight Piésold Ltd.*, 2018 BCSC 211).
- **City of Victoria:** Advising as senior counsel in multiple disputes concerning delays and cost overruns related to construction of the new Johnson Street Bridge in Victoria, BC.
- **City of Surrey:** Advising as senior counsel in contractual dispute with contractor concerning revenues from City recycling program.
- **City of Surrey:** Advising as senior counsel in resolving a complex multi-party dispute regarding the construction of the City's new City Hall, the cost of the project, responsibility for project delays, and

responsibility for project deficiencies including issues related to a geoexchange system.

- **Confidential client:** Advising a major service provider in the transportation industry on disputes relating to a PPP contract for a fare payment system.
- **City of Richmond:** Providing ongoing dispute resolution advice on multiple construction projects.
- **District of North Vancouver:** Providing ongoing procurement and dispute resolution advice on the District's RFP for their curbside recyclables program and the construction of the new Delbrook Community Recreation Centre.
- **The Regional District of Okanagan-Similkameen:** Advising in connection with a claim by a municipality against an engineering firm for negligent services regarding roadworks (*Okanagan-Similkameen (Regional District) v. Associated Engineering (B.C.) Ltd.*, 2015 BCSC 909).
- **Cobalt Construction Inc.:** Advising as tender counsel (*Cobalt Construction Inc. v. Kluane First Nation*, 2014 YKSC 40).
- **Kindred Construction Ltd.:** Advising in connection with a construction contract (*Chateau Granville Partnership v. Kindred Construction Ltd.*, 2013 BCCA 486).
- **Maple Reinders:** Advising as tender counsel (*Maple Reinders Inc. v. Cerco Developments Ltd.*).
- **Maple Reinders:** Advising as tender counsel (*City of Kamloops v. Maple Reinders Inc.*, (8 July 2005), Kamloops 37460 (B.C.S.C.)).
- **Golden Hill Ventures Ltd:** Advising in connection with a changing soils and delay claim (*Golden Hill Ventures Ltd. v. Kemess Mines Inc.*, 2002 BCSC 1460).
- **Kitimat General Hospital Society:** Advising as tender counsel (*J. Oviatt Contracting Ltd. v. Kitimat General Hospital Society* 2000 BCSC 45; 2002 BCCA 323).
- **Bruskiewich :** Advising in connection with engineer's negligence (*Coast Hotels Ltd. v. Bruskiewich* 2001 BCSC 1499).
- **Confidential client:** Advising as tender counsel (*W.I.B. Co. Construction v. British Columbia (School District No. 23 - Central Okanagan)*, (1998) B.C.J. No. 1783 (S.C.)).
- **Ladysmith and District Hospital Assn:** Advising as tender counsel (*Pro Star Mechanical Contractors Ltd. v. Ladysmith and District Hospital Assn.* (1995) B.C.J. No. 2168 (S.C.); (1997) B.C.J. No. 2559 (C.A.)).
- **Choukalos Woodburn McKenzie Maranda Ltd.:** Advising in connection with a delay claim (*Foundation Company of Canada Ltd. v. United Grain Growers Ltd.*, (1995) B.C.J. No. 2235 (S.C.); (1997), 34 B.C.L.R. (3d) 92 (C.A.)).
- **PJB Engineering Ltd:** Advising in connection with engineer's negligence (*British Columbia v. R.B.O. Architecture Inc.*, (1993) B.C.J. No. 48 (S.C.)).
- **F.P. Construction Ltd.:** Advising in connection with a lien builders construction dispute (*F.P. Construction Ltd. v. B.U.K. Investments Ltd.*, (1993) B.C.J. No. 690 (C.A.)).
- **Chilliwack (District) :** Advising in connection with *Kamco Installation Ltd. v. Chilliwack (District)*,(1991) B.C.J. No. 2438 (S.C.).
- **Gordon Spratt & Associates:** Advising in connection with municipal building department negligence (*Wilson v. Robertson* (1991), 43 C.L.R. 117 (B.C.S.C.)).
- **Wagg & Herbal Architects:** Advising in connection with architect's negligence (*Farmer Construction Ltd. v. Doncaster Holdings Ltd.* (1990), 46 C.L.R. 80 (B.C.S.C.)).
- **Assn. of Professional Engineers :** Advising in connection with engineering profession Charter challenge (*Richardson v. Assn. of Professional Engineers* (1989), 41 B.C.L.R. (2d) 130 (S.C.)).

- **Urban Systems Ltd.** : Advising in connection with a changed soils claim (*Diamond Willow Ranch Ltd. v. Oliver (Village)*, (1988) 31 C.L.R. 287 (B.C.S.C.)).
- **Royal Bank of Canada:** Advising in relation to the builder's liens (*Royal Bank of Canada v. Island Plaza Development Corp.*, (1987) B.C.J. No. 2622 (S.C.)).

Recognition

- Recognized in *The Canadian Legal Lexpert Directory* as one of Canada's leading lawyers in the area of Construction Law (2008–2019)
- Recognized in *The Best Lawyers in Canada* as one of Canada's leading lawyers in Construction Law (2010–2020) and Public Procurement Law (2016–2020)
- Recognized in *Chambers Canada* as a leading lawyer in the area of Construction (2016–2019)
- Named "Lawyer of the Year" by Best Lawyers for Construction Law, Vancouver (2018)
- Recognized in *Lexpert Special Edition – Leading Canadian Lawyers in Global Mining*(2017, 2018)
- Recognized in the *Lexpert Special Edition – Canada's Leading Infrastructure Lawyers* (2017, 2018)
- Recognized by *Who's Who Legal* as a leading lawyer in the area of Construction: Lawyers (2015, 2017)
- Recognized by *Expert Guides* in the area of Construction and Real Estate: Construction (2015–2017)
- Recognized by *Benchmark Litigation* as a Local Litigation Star (British Columbia) (2013–2016) and as a Litigation Star in the areas of Construction and General Commercial (2017)
- Recognized by *Who's Who Legal Canada* as a leading lawyer in the area of Construction (2014–2017)
- Recognized by *Chambers Global* as a leading lawyer in the area of Construction Law (Canada) (2014, 2015)
- *ILO Client Choice Award 2014* – Exclusive Winner of the Construction category for British Columbia
- *LexisNexis - Martindale-Hubbell 2006, 2007, 2008, 2013:* BV Peer Review Rated

In the Media

- Quoted in "How P3 Shaped Vancouver," *Lexpert*, August 2017
- Quoted in "Construction Disputes," *Lexpert*, August 2016
- Mentioned in "CLEBC's Most Prolific Volunteers: 1996 to 2016 ," *Continuing Legal Education Society of British Columbia*, July 2016
- Quoted in "Building Infrastructure: The Legal Framework for Canada's Push ," *Lexpert*, April 2016
- Quoted in "Prompt Payment Reform," *Lexpert*, August 28, 2015

Insights

- Co-author, "Construction Law," *Annual Review of Law and Practice*, Continuing Legal Education of British Columbia, 2018
- "Construction Law," *Annual Review of Law and Practice*, The Continuing Legal Education Society of British Columbia, March 2016
- Co-author, "Canada – Construction & Engineering Law 2015," *The International Comparative Legal Guide to: Construction & Engineering Law 2015 Edition*, Global Legal Group Ltd., London

- Co-author, "Canada – Construction & Engineering Law 2014," *The International Comparative Legal Guide to: Construction & Engineering Law 2014 Edition*, Global Legal Group Ltd., London
- "Canada," *The Projects and Construction Review*. September 2011; *Second Edition*, June 2012; *Third Edition*, July 2013
- "Green Tsunami – Sustainable Construction," (2013) 1 J.C.C.C.L. 47
- "Construction Law," Chapter 9, *Annual Review of Law and Practice*, The Continuing Legal Education Society of British Columbia, 2012, 2011
- "The Bargains We Make," *Innovation*, September/October 2012
- "Duty of Professional Engineers to Take Reasonable Care," *Innovation*, March/April 2011
- "Recent Tender Law Case Lessons," *Construction Business Magazine*, January/February 2011
- Focus on Construction | Infrastructure: Engineer and Owner both Liable for Negligent Design that Failed to Protect Public Safety, June 2010
- "Case Comment: *McEachern v. 752265 B.C. Ltd.* 2009 BCSC 1290," Focus on Real Estate, October 2009
- Legal Implications of Green Building, October 2009
- "Enforcing the Lien," Chapter 10, *British Columbia Builders Liens Practice Manual*, The Continuing Legal Education Society of British Columbia, June 1999 (updated annually)
- "Construction Disputes," Chapter 9, *British Columbia Business Disputes Practice Manual*, The Continuing Legal Education Society of British Columbia, 2011
- "The *Tercon* Case – Risks for Professional Engineers," *Innovation*, May/June 2010
- "10 Things Every Engineer Should Know About Tender," *Innovation*, July/August 2007
- "Multi-Party Litigation Update," (2004), 62 *The Advocate* 849
- "Builders' Lien Actions and Arbitration," *Annual Review of Civil Litigation*, 2004
- "Field Review Responsibilities of Design Consultants," *Innovation*, June 2003
- "Advising Clients on the Settlement of Multi-Party Litigation," (1997), 55 *The Advocate* 205

Activities and Affiliations

- Vice President, Canadian College of Construction Lawyers
- Elected Governor, Canadian College of Construction Lawyers
- Member, BC Law Institute's Builders Lien Act Reform Project Committee, 2014 to present
- Member, Canadian Bar Association (British Columbia Branch) Special Committee on Contribution after Settlement under the *Negligence Act*
- Member, Canadian Bar Association, B.C. Branch, Construction Law subsection
- Member, Certified Professional Committee, City of Vancouver, 2003-2005

Community Involvement and Pro Bono

- CLEBC's Most Prolific Volunteers, 1996-2016
- YWCA Women of Distinction Award, Sponsorship Committee, 2008-2009

- Level 2 NCCP certified coach, volleyball (technical)
- High school and club volleyball coach, 1999-2005, 2010-18

Teaching Roles

- Lecturer, "'Tender Law' and 'Dispute Resolution,'" Civil Engineering 7030, British Columbia Institute of Technology, 2007
- Lecturer, "Legal Issues for the Construction Industry," University of British Columbia, Continuing Education for Engineering and Architecture, 1997-1999
- Lecturer, "Engineers and the Law," University of British Columbia, Faculty of Engineering, 1998
- Lecturer, "Builders' Liens," Construction Law 338, Douglas College, 1989
- Lecturer, "Canadian Law for Engineering," Professional Practice Seminars, Association of Professional Engineers and Geoscientists of B.C., 2001-2007

Presentations

- Co-Chair, Construction Projects: Risk Management for Modern Challenges, *Pacific Business & Law Institute*, Vancouver April 2019
- Presenter, "Implications for Dispute Resolution", *Pacific Business & Law Institute*, Vancouver April 2019
- Presenter, "Choosing your Procurement Model: Traditional Tenders and RFPs," PBLI, April 2018
- Presenter, "Good Faith in Construction – Contracts Update," Canadian Bar Association, October 2017
- Presenter, "Duty of Good Faith," Annual Conference of the Canadian College of Construction Lawyers, May 2017
- Presenter, "Hard Hat Forum – Nuts and Bolts of Construction Law – Avoiding and Resolving Construction Disputes During Construction," April 2017
- Presenter, "Hard Hat Forum: Nuts and Bolts of Construction Law - Procurement and Project Development Issues for Municipalities," Vancouver Hard Hat Forum, December 1, 2016
- Presenter, "Hard Hat Forum - Caselaw Update," Vancouver Hard Hat Forum, April 2, 2015
- Presenter, "Green Construction Litigation," Canadian Bar Association – Construction Law Subsection, January 23, 2013
- Presenter, "Green Tsunami – Sustainable Construction: The Construction Lawyer's Primer," **Annual Conference of the Canadian College of Construction Lawyers, May 2012**
- Lecturer, **Association of Professional Engineers and Geoscientists of B.C.**, "Tender and RFP Law," "Engineers & Geoscientists as Expert Witnesses", "Field Review", "Drafting Tenders, RFPs and Bids", 2002-2011
- Presenter and Contributor, **Continuing Legal Education Society of B.C.**, 2012, 2011: "CLE-TV: *Tercon Contractors Ltd. v. British Columbia*," "Construction Law 2010: And Now For Something Completely Different," "CLEBC Construction Law 2009," "Tendering Law 2009," "Construction Law – 2008 Update," "Tendering Law," September 2007; "Construction Law – 2007 Update," "Construction Law – 2005 Update," "Construction Law – 2004 Update," "Construction Law - 2003 Update," "Construction Conference 2002," "Builders Lien Update," 2002; "Builders Liens," 1998; "Builders Liens," 1997; "Economical Litigation," 1997; "Multi-Party Litigation," 1995; "Builders Liens," 1995; Chair, Construction Contracts: Practical Guidelines to Prevent Costly Mistakes Pacific Business & Law Institute, December 11, 2012, and Presenter, "Construction

Contract Termination”

- Chair, Presenter and Contributor, **Pacific Business and Law Institute**, “Case Law Update” and “Adjudication,” *Construction Contracts: The Art of the Deal*, Dec 2013; “Construction Contract Termination,” *Construction Contracts: How to Prevent Costly Mistakes*, Dec 2012; “Construction Contract Termination,” *Construction Contracts: Practical Guidelines to Prevent Costly Mistakes*, November 2011; “Bidding & Tendering: Essential in our Current Economy,” May 2010; “Construction Management at Risk,” December 2009; “The Impact of the Green Movement on Construction Contract Drafting and Administration,” January 2009; “A Hot Construction Market – Tips & Traps,” November 2007; “Construction Scheduling and Delay: The Complete Course,” May 2007; “Construction Tendering: Practical Solutions,” October 2005; “Surviving the Boom: Meeting the Challenges of a Hot Construction Market,” June 2005; “Construction Contracts: Practical Guidelines to Prevent Costly Mistakes,” May 2007; “Construction Law ’98”
- Presenter, **Affinity Institute**, “Proving the Claim,” *Delay Claims in Western Canada*, Nov 2013; “Bidding and Tendering,” *Construction Contracting and Project Delivery Models: Maximizing Profit and Minimizing Risk*, Sept 2013
- Co Presenter, “Tenders and RFPs: Legal Update,” **Purchasing Managers Association of Canada**, Annual General Meeting, October 4-5, 2012
- Presenter, “TERCON: Changing the Face of Tendering Law in Canada,” **The Canadian Institute**, Vancouver, June 24, 2010
- Co-Chair and Presenter, “Liability and Risk Issues During Green Design and Construction,” *Green Buildings: Rules, Risks and Opportunities*, **Osgoode Professional Development**, May 18, 2010
- Presenter, “Assessing, Allocating, and Managing Risk in Public Construction Procurement Contracts,” *Infonex Essentials of Public Construction Procurement*, **Ottawa, Infonex**, April 26, 2010
- Co-presenter with John Haythorne, "Utilizing Project Scheduling as an Effective Management Tool" and "Advanced Guide to Drafting Tender Documents and Construction Contracts," **The Canadian Institute's 2nd Annual Construction Superconference**, Regina, April 21-23, 2010
- Presenter, “Green Building” Construction Law update, “Construction Law Strategies for 2009: Risk Redefined,” Calgary, June 17, 2009
- Presenter, “Negotiating and Structuring Public-Private Partnership (P3) Contracts,” at the **Canadian Institute’s 2nd Annual Conference on Negotiating Construction Contracts**, Edmonton, April 2009
- Chair and Presenter, “How to Deal with Liens” and “Enforcement of Liens (from filing to trial),” **Lorman B.C. Construction Liens Seminar**, Vancouver, March 2009 and March 2008
- Co-presenter with John Haythorne, "Tendering and Contract Law in the Waste Management Industry," **Tendering and Contract Seminar, Coast Waste Management Association**, Victoria, January 2009
- Co-presenter with John Haythorne, “Transportation Projects in B.C.,” MMCD/Municipal Engineers Division, **APEGBC**, November 2008
- Co-presenter with John Haythorne, “Concession Agreements - What’s Involved,” P3s and the Design Consultant, Consulting Engineers of British Columbia, October 2008
- Chair and Presenter, “Construction Documents in B.C. - Not the Same Old Thing!” **Lorman Education Services**, September 2008
- Presenter, “Geotechnical Risk Allocation in Design-Build,” **Vancouver Geotechnical Society Annual Symposium**, May 2008
- “B.C. Ferry Arrangements: Pitfalls and Possibilities,” **Trial Lawyers Association of B.C.**, 2007

Areas of focus

Practices

- Alternative Dispute Resolution (ADR)
- Arbitration
- Commercial Contracts
- Commercial Litigation
- Construction and Engineering Disputes
- Design Services
- Government Contracts - US
- Litigation and Dispute Resolution
- Mediation
- Professional Liability Litigation
- Project Development
- Public Policy and Regulation
- Real Estate

Industry sectors

- Construction
- Infrastructure and PPP
- Insurance
- Mining
- Mining Litigation and Dispute Resolution
- Procurement
- Professional Liability

Education

- Harvard Law School, 2003, Mediation Workshop
- University of British Columbia, 1984, LLB
- University of British Columbia, 1979-81, Faculty of Commerce
- Dalhousie University, 1978-79, Faculty of Arts
- Centre for Conflict Resolution, Justice Institute of B.C., Negotiation and Mediation Courses, 1997, 1999

Admissions and qualifications

- British Columbia, 1985
- Yukon, 2011

Languages

- English