

LUDMILA BARBARA HERBST, Q.C.

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## **CASES**

Ludmila has been involved in many of the firm's major litigation and arbitration files. Cases in which Ludmila has appeared as counsel or co-counsel include:

- *Musqueam Indian Band v. Musqueam Indian Band (Board of Review)*, 2016 SCC 36
- *Amacon Group et al v. Area 09*, 2016 PAABBC 20160202
- *Walters v. Agricultural Land Commission*, 2016 BCSC 1618
- *Mulgrew v. The Law Society of British Columbia*, 2016 BCSC 1279
- *British Columbia (Assessor of Area #09 – Vancouver Sea to Sky) v. Amacon Group*, 2016 BCSC 146
- *Dhillon v. Jaffer*, 2016 BCCA 119
- *Zelstoff Celgar Limited Partnership v. British Columbia Hydro and Power Authority*, 2015 BCCA 497
- *J.P. v. Plecas*, 2015 BCSC 1962
- *Dhillon v. Jaffer*, 2015 BCSC 1456
- *Heather Hills Farm Society v. Agricultural Land Commission*, 2015 BCSC 1108
- *Musqueam Indian Band Board of Review v. Musqueam Indian Band*, 2015 BCCA 158
- *Vancouver (City) v. Canadian Pacific Railway Company*, 2015 BCSC 76
- *0710223 BC Ltd. et al v. Area 09*, 2014 PAABBC 20140014 (September 25, 2014)
- *McCall v. Agricultural Land Commission*, 2014 BCSC 1717
- *Riley Park Hillcrest Community Association v. Waterston*, 2014 BCSC 1605
- *Dhillon v. Jaffer*, 2014 BCCA 215
- *Musqueam Indian Band Board of Review v. Musqueam Indian Band*, 2013 BCSC 2214
- *Musqueam Indian Band Board of Review v. Musqueam Indian Band*, 2013 BCSC 1362
- *British Columbia (Assessor of Area #15 – Fraser Valley) v. Conair Group Inc.*, 2013 BCSC 111
- FortisBC Inc. Application for a Certificate of Public Convenience and Necessity for the Advanced Metering Infrastructure Project, British Columbia Utilities Commission Decision (July 23, 2013)

- FortisBC Inc. Application for a Certificate of Public Convenience and Necessity for the Purchase of the Utility Assets of the City of Kelowna, British Columbia Utilities Commission Decision (March 1, 2013)
- *Mason Capital Management LLC v. TELUS Corporation*, 2012 BCSC 1619
- *Mason Capital Management LLC v. TELUS Corporation*, 2012 BCSC 1582
- *McCall v. British Columbia (Agricultural Land Commission)*, 2012 BCSC 443
- *R. v. Gingras*, 2012 BCSC 230
- FortisBC Inc., Application for Approval of 2012-2013 Revenue Requirements and Review of 2012 Integrated System Plan, British Columbia Utilities Commission Decision (August 15, 2012)
- FortisBC Inc. Residential Inclining Block Rate Application (January 13, 2012)
- *Noh v. Plaza 88 Developments Ltd.*, 2011 BCCA 461
- *Crookes v. Newton*, 2011 SCC 47, [2011] 3 SCR 269
- *Reference re: Section 293 of the Criminal Code of Canada*, 2011 BCSC 1588
- Zellstoff Celgar Limited Partnership Complaint Regarding the Failure of FortisBC and Celgar to Complete a General Service Agreement and FortisBC's Application of Rate Schedule 31 Demand Charges, British Columbia Utilities Commission Decision (November 14, 2011)
- *Transalta Corporation et al. v Area 08*, 2011 PAABBC 20100449 (August 15, 2011)
- *Transalta Corporation et al. v. Area 08*, 2011 PAABBC 20101905 (January 11, 2011)
- *Tree To Me Agricultural Products Inc. v. British Columbia (Agricultural Land Commission)*, 2010 BCSC 1647
- *Faculty Association of the University of British Columbia v. University of British Columbia*, 2010 BCCA 189
- FortisBC Inc. 2009 Rate Design and Cost of Service Analysis, British Columbia Utilities Commission Decision (October 19, 2010)
- *R. v. Basi, Virk & Basi*, 2008 BCSC 1242
- *Eaton v. Vancouver (City)*, 2008 BCSC 1080
- *Rand v. The Anglican Synod of the Diocese of British Columbia*, 2008 BCSC 668; 2008 BCCA 294
- *Aurizon Mines Ltd. v. Northgate Minerals Corp.* (2006), 57 B.C.L.R. (4<sup>th</sup>) 137, 2006 BCSC 1022, affirmed (2006), 55 B.C.L.R. (4<sup>th</sup>) 203, 2006 BCCA 340
- *An Incorporated Dentist's Practice, Re.*, 2006 CanLII 13537 (BC I.P.C.)
- *Application to proceed in Camera, Re.*, 2007 SCC 43; 2006 BCSC 1805
- *Gill v. Pacific Newspaper Group Inc.* (2006), 28 C.P.C. (6<sup>th</sup>) 370, 2006 BCSC 650
- *Evergreen Building Ltd. v. IBI Leaseholds Ltd.* (2005), 48 R.P.R. (4<sup>th</sup>) 308, 2005 BCSC 1907

- *Cut & Run Holdings Ltd. v. Booze Brothers Holdings Inc.*, 2005 BCCA 196
- *Hamouth v. Smart Video Technologies Inc.* (2005), 39 B.C.L.R. (4<sup>th</sup>) 251, 2005 BCCA 172
- *C.U.P.E. (Airline Division, Canadian Component) v. C.U.P.E. (Airline Division, Air Canada Component)* (2005), 140 L.A.C. (4<sup>th</sup>) 353, 2005 BCSC 810
- *Cut & Run Holdings Ltd. v. Booze Brothers Holdings Inc.* (2005), 2 B.L.R. (4<sup>th</sup>) 14, 39 B.C.L.R. (4<sup>th</sup>) 218, [2005] 6 W.W.R. 708, 2005 BCSC 167
- *Vancouver Sun, Re.*, [2004] 2 S.C.R. 332, 2004 SCC 43
- *Application Under s. 83.28 of the Criminal Code, Re.*, [2004] 2 S.C.R. 248, 2004 SCC 42
- *Peel Financial Holdings Ltd. v. Western Delta Lands Partnership* (2003), 37 C.P.C. (5<sup>th</sup>) 115, 2003 BCSC 784
- *Harrington v. Dow Corning Corp.* (2002), 3 B.C.L.R. (4<sup>th</sup>) 51, 2002 BCSC 1018; [2000] 11 W.W.R. 201, 2000 BCCA 605
- *Robson v. Chrysler Canada Ltd.* (2002), 2 B.C.L.R. (4<sup>th</sup>) 1, 2002 BCCA 354; (2001), 84 B.C.L.R. (3d) 163, 2001 BCSC 40
- *Proprietary Industries Inc. v. eDispatch.com Wireless Data Inc.* (2001), 30 B.C.L.R. (3d) 87, 2001 BCSC 1850
- *3464920 Canada Inc. v. Strother*, 2001 BCSC 949
- *R. v. E. (O.N.)*, [2001] 3 S.C.R. 478, 2001 SCC 77
- *Adler International Investments Ltd. v. Central Okanagan (Regional District)*, 2001 BCCA 416
- *Law Society (British Columbia) v. Gravelle* (2001), 89 B.C.L.R. (3d) 187, 2001 BCCA 383
- *Musqueam Indian Band v. Glass*, [2000] 2 S.C.R. 633, 2000 SCC 52
- *Pacific Press v. British Columbia (Attorney General)* (2000), 73 B.C.L.R. (3d) 264, 2000 BCSC 248
- *Brentwood Pioneer Holdings Ltd. v. British Columbia (Agricultural Land Commission)* (2000), 186 D.L.R. (4<sup>th</sup>) 385, 2000 BCCA 320
- *GVRD v. Assessor of Area #23*, PAABBC Appeal No.: 1999-23-00061 (December 8, 1999)

### **PUBLICATIONS AND PRESENTATIONS**

- Co-author, *Commercial Arbitration in Canada*, looseleaf (Aurora, Ont.: Canada Law Book), with yearly updates
- Co-Presenter, CLE Conference – BC Business Disputes, “Misrepresentation” (November 18, 2016) (upcoming)
- Author, “Legal Anecdotes and Miscellanea”, 74 Advocate 773 (September 2016)
- Author, “Legal Anecdotes and Miscellanea”, 74 Advocate 619 (July 2016)
- Co-Presenter, 10<sup>th</sup> Annual WCCAS Energy, Mining and Resources Arbitration Conference, Panel No. 2: Legal Update (May 10, 2016)

- Author, “Entre Nous”, 74 Advocate 331 (May 2016)
- Author, “Legal Anecdotes and Miscellanea”, 74 Advocate 293 (March 2016)
- Author, “Entre Nous”, 74 Advocate 11 (January 2016)
- Presenter, WCCAS Annual General Meeting, “Recent Judicial Pronouncements on Arbitration” (November 21, 2015)
- Author, “Legal Anecdotes and Miscellanea”, 73 Advocate 937 (November 2015)
- Co-Presenter, Urban Development Institute, “Property Tax Case Law Review & Tax Strategies” (October 14, 2015)
- Author, “Entre Nous”, 73 Advocate 491 (July 2015)
- Co-Presenter, Benchmark Women in Litigation Forum, “Predicting and Controlling the Cost of Litigation” (June 30, 2015)
- Co-Presenter, Commercial Arbitration 2015: Taking Advantage of User Control Conference, “The First Key to a Successful Arbitration – An Arbitration Agreement Consistent With User Priorities: General Considerations” (June 5, 2015)
- Co-Presenter, 9<sup>th</sup> Annual WCCAS Energy, Mining and Resources Arbitration Conference, Panel No. 6: “Hot Topics” (May 12, 2015)
- Author, “Legal Anecdotes and Miscellanea”, 73 Advocate 457 (May 2015)
- Co-Presenter, CLE Conference – Shareholders Disputes, “ADR and Shareholders Disputes” (April 22, 2015)
- Presenter, Federated Press Mini LLP for Aboriginal Leadership Course, “Shareholder and Member Rights in Aboriginal Corporations and Societies” (March 11, 2015)
- Author, “Fernie’s Fabulous Courthouse”, 73 Advocate 205 (March 2015)
- Author, “On Cannabis Day” portion of “Entre Nous”, 73 Advocate 173 (March 2015)
- Author, “Legal Anecdotes and Miscellanea”, 73 Advocate 137 (January 2015)
- Presenter, CLE Conference –Defamation and Media Law, “Pleadings, Peculiarities and Particulars in a Defamation Action” (November 21, 2014)
- Author, “Legal Anecdotes and Miscellanea”, 72 Advocate 933 (November 2014)
- Author, “Entre Nous”, 72 Advocate 651 (September 2014)
- Author, “Entre Nous”, 72 Advocate 329 (May 2014)
- Author, “Legal Anecdotes and Miscellanea”, 72 Advocate 453 (May 2014)
- Co-author, “More Than Tax: The Use of Notices of Assessment”, Canadian Property Tax Association Communication Update, Volume No. 34, Issue May/June 2014 at pp. 3-4
- Co-author, “Roundtable Discussion on Arbitration Rules”, Canadian Arbitration and Mediation Journal, Vol. 23, No. 1, Spring/Summer 2014 at pp. 24-33

- Co-presenter, “Limitation Periods Under the *Family Law Act* and the New *Limitation Act*”, Trial Lawyers Association of British Columbia Conference – The Family Law Act: The Times Are Still A’Changing (May 9, 2014)
- Co-presenter, National CBA Panel “Summary Judgment Post-Hryniak: The Supreme Court of Canada’s ‘Cultural Shift’ in Civil Justice”, (February 19, 2014)
- Co-presenter, “Exemptions”, CLE Conference – Real Property Assessment and Taxation (November 7, 2013)
- Co-presenter, “Renewing the Pillars of Domestic Arbitration-New Canadian Arbitration Laws and New ADRIC Rules”, ADR Institute of Canada National Conference and ICC Canada International Arbitration Conference (October 24-25, 2013, Toronto)
- Presenter, Vancouver Association of Law Libraries – “The New BC *Limitation Act*” (October 10, 2013)
- Presenter, “Can You Still Sue? BC’s New *Limitation Act*”, CLE Conference - A Litigator’s Arsenal (September 26, 2013)
- Author, “Costs Awards at the BC Property Assessment Appeal Board”, Canadian Property Tax Association Communication Update, Volume No. 33, Issue May/June 2013 at pp. 6-7
- Presenter and author, “Resolving Post-Closing Disputes – The Arbitration Route”, CLE Conference – Legal Strategies for Private Business Acquisitions (June 5, 2013)
- Co-presenter, “Introduction to the New BC *Limitation Act*”, CLE Conference - New BC *Limitation Act* (May 6, 2013)
- Co-presenter, “BC’s New *Limitation Act*”, CBA Corporate Counsel Section Meeting (February 4, 2013)
- Co-presenter, “BC’s New *Limitation Act*”, CBA Real Property Section Meeting (January 16, 2013)
- Co-presenter, “BC’s New *Limitation Act*”, CBA Civil Litigation Section Meeting (December 4, 2012)
- Co-presenter, “Practice Tips for the New BC *Limitation Act*”, CBA Webinar (August 21, 2012)
- Co-presenter, “*Limitation Act* (Bill 34)”, CBA Webinar (June 19, 2012)
- Author, “Amendment to First Nations Tax Exemption”, Canadian Property Tax Association Communication Update, Volume No. 32, Issue May/June 2012 at pp. 5-6
- Author, “United Nations Convention On Contracts For the International Sale of Goods”, Annual Review of Civil Litigation 2012
- Presenter, “Polygamy Constitutional Reference in BC”, 2012 Joining Together Conference: Taking Action Against Child Abuse (May 6-9, 2012)
- Co-chair and presenter, CLE Conference - Commercial Arbitration (March 1, 2012)
- Presenter, Panel on Drafting Commercial Arbitration Agreements, ADRIC 2011 Conference - Peak Performance in ADR (October 27-28, 2011)

- Presenter and author, “Misrepresentation”, CLE Conference - Business Disputes (October 7, 2011)
- Author, “Written Hearings Before BC’s Property Assessment Appeal Board”, Canadian Property Tax Association Communication Update, Volume No. 31, Issue January/February 2011 at pp. 4-5
- Interview: Noa Glouberman, “The right side of the law: Lawyers, paralegals, legal administrative assistants in demand in 2011”, Employment Paper April 23/10
- Presenter, “Litigation Preparedness”, Canadian Corporate Counsel Association Fall Training Camp (November 8, 2010)
- Author, “Property Tax Exemptions: Non-Profit Housing Societies”, Canadian Property Tax Association Communication Update, Volume No. 30, Issue May/June 2010 at pp. 4-5
- Co-author, “Pleadings Under the New Rules”, CLE Conference - The New Civil Rules for Legal Support Staff (May 7, 2010)
- Co-author, “Mixed Success on Challenges to Municipal Property Tax Rate Bylaws”, Canadian Property Tax Association Communication Update, Volume No. 30, Issue January/February 2010 at pp. 3-4
- Author, “Evolving Court Rules on Expert Evidence”, Canadian Property Valuation, Vol. 54, Book 1, January 2010
- Author, “Appeal Court Puts a New Spin on Costs for Arbitration”, The Lawyers Weekly, Vol. 29, No. 37 (February 12, 2010)
- Author, “Security for Costs in Arbitration: playing hard to get”, The Lawyers Weekly, Vol. 29, No. 2 (May 15, 2009)
- Author, “Arbitration (Domestic Commercial)”, Lexpert CCA Corporate Counsel Directory (May 2008)
- Author, “Uncertainty surrounds awards for costs in arbitration proceedings”, The Lawyers Weekly, Vol. 27, No. 44 (March 28, 2008)
- Co-author, “Arbitration (Domestic Commercial)”, Lexpert CCA Corporate Counsel Directory (May 28, 2007)
- Presenter and author, “Judicial Deference to Arbitral Jurisdiction: Applications for Stays of Proceedings and Dell Computer Corp. v. Union des Consommateurs”, The Advocates Club (September 17, 2007)
- Presenter and co-author, “A Good Offence: Pleadings and Preliminary Motions”, CLE Conference - A Litigator’s Arsenal 2007 (June 8, 2007)
- Presenter and co-author, “Breach of Fiduciary Duty”, CLE Conference - Torts 2007 (May 17, 2007)
- Co-author, “Anti-Suit Injunctions are Garnering Interest”, The Lawyers Weekly (March 30, 2007)
- Author, “In-House Counsel and Attorney-Client Privilege”, Lex Mundi Publication (2007)

- Presenter and author, “Effective Legal Research”, CLE Conference - Personal Injury for Legal Support Staff (December 2006)
- Presenter, “Research Considerations Relating to Commercial Arbitration”, CBA Legal Research and Writing Subsection (April 2006)
- Presenter and author, “Commercial Litigation: Effective Legal Research and Writing”, Insight Information Paralegal Forum (April 6-7, 2006)
- Presenter and author, “Sealing Orders in Civil Proceedings”, The Advocates Club (February 21, 2005)
- Co-author, “Rule 18A Applications: Suggestions for Effective Use”, CLE Conference - Civil Litigation (October 2004)
- Co-author, “Perceived Conflicts Between Social Values and Charter-Protected Rights” (May 2002)
- Co-author, “Limitation of Actions in Tort” (2002) 60 Advocate 535
- Co-author, “Torts Update: Limitation of Actions”, CLE Conference - Torts (April 2001)
- Co-author, “Evidentiary Issues in the Law of Contract”, CLE Conference (November 2000)
- Co-author, “Jurisdictional and Inter-Jurisdictional Issues”, CLE Conference (April 2000)