



David V. Tupper

Partner | Calgary

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Detailed Profile

David's litigation practice involves all aspects of corporate/commercial litigation with an emphasis on construction law, securities law, insurance law, environmental law, and oil and gas law. He regularly appears before all levels of courts in Alberta as well as in the Federal Court and the Federal Court of Appeal. In securities matters, he frequently appears before the Securities Commission of Alberta.

David also maintains a considerable advisory practice in connection with environmental issues, property and liability policies, and reinsurance losses.

SELECT EXPERIENCE

- Acted as litigation counsel to Suncor in its hostile take-over of Canadian Oil Sands
- Acted in a number of arbitrations related to claims of cost overruns and delays in construction of a large oil sands facility
- Acted in an arbitration with respect to pipeline cost-of-service arrangements
- Represented AMEC Foster Wheeler in a long litigation involving construction of a magnesium oxide plant in Jordan
- Represented EPCOR Utilities Inc. and Capital Power Corporation in defence of an action to enjoin a C\$3-billion transaction on the basis of deficient approval by the shareholder and the City of Edmonton
- Acted in an international commercial arbitration (valued at over C\$800-million) involving construction and insurance issues in the oil sands
- Acted for a multinational construction company in defence of allegations of negligent design and gross negligence in project management relating to an international construction project
- Led defence of Agrium in an action involving, among other things, allegations that Agrium breached a change of control agreement relating to the grant and valuation of options
- Appeared before the Alberta Energy Regulator in a significant dispute over enhanced recovery in an oil pool
- Acted for Dominion Exploration Canada Ltd. in a dispute over gas well ownership
- Represented a large multinational energy company in a dispute over contamination arising from refinery lands

- Acted as an umpire pursuant to the *Insurance Act* in valuation disputes
- Regularly provides advice about insurance coverage issues and acts in related litigation
- Defended a number of class actions involving banking issues, consumer credit and competition issues

AWARDS & RECOGNITION

- *Acritas Stars 2019: Independently Rated Lawyer* (Nominated as a stand-out lawyer by senior in-house counsel)
- Benchmark Canada Awards Alberta Litigator of the Year 2018
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- *Best Lawyers' 2019* Calgary Director and Officer Liability Practice "Lawyer of the Year"
- *Best Lawyers' 2018* Calgary Product Liability Law "Lawyer of the Year"
- *Best Lawyers' 2017* Calgary Class Action Litigation "Lawyer of the Year"
- *The Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada* - 2018-2019 (Corporate Commercial Litigation)
- *The Legal 500 Canada* - 2015-2019 (Listed in the elite "Leading Lawyers in Canada" list for Dispute Resolution and Insurance)
- *Chambers Global: The World's Leading Lawyers for Business* - 2009-2019 (Alberta - Dispute Resolution): "David Tupper 'is a prominent name' in litigation in Alberta and is praised by clients for his wide-ranging skill set...." Other comments include: "very well-reasoned, very persuasive, and a very calm court presence," "has a tremendous ability to listen to clients, understand the issues and convert that to a successful strategy" and "smart, effective, no nonsense and moves very quickly."
- *Chambers Canada: Canada's Leading Lawyers for Business* - 2016-2019 (Litigation: General Commercial – Alberta; Insurance: Dispute Resolution – Canada): "David Tupper maintains a strong position in the market and is regarded by clients as 'a bet the company litigation lawyer that we would go to on very serious litigation matters.' One interviewee added: 'He is a litigator who knocks it out of the park.'"
- *The Canadian Legal Lexpert Directory* - 2014-2019 (Most Frequently Recommended: Litigation - Corporate Commercial); 2019 (Consistently Recommended: Litigation – Directors and Officers Liability); 2018-2019 (Repeatedly Recommended: Commercial Arbitration); 2016-2019 (Repeatedly Recommended: Litigation - Commercial Insurance); 2017-2019 (Repeatedly Recommended: Construction Law); 2018-2019 (Repeatedly Recommended: Litigation - Product Liability); 2019 (Repeatedly Recommended: Class Actions); 2019 (Repeatedly Recommended: Litigation – Securities)
- *Benchmark Canada: The Definitive Guide to Canada's Leading Litigation Firms and Attorneys* - 2013-2019 (Litigation Star - Construction; Energy and Natural Resources; Insurance; General Commercial). "David has an ability to anticipate and in certain instances defuse situations before they become major issues. With that said, I did get the opportunity to see him in the court room and I was very glad he was on my side!"
- *Who's Who Legal: Commercial Litigation* - 2017-2018, "David stands out as an excellent trial lawyer."
- *Who's Who Legal: Construction* - 2017-2018

- *Who's Who Legal: Insurance & Reinsurance* - 2015-2018 (Insurance & Reinsurance)
- *Lexpert's Special Edition on Litigation: Canada's Leading Litigation Lawyers* - 2013-2018 (Ranked Lawyer)
- *Lexpert's Special Edition on Energy: Canada's Leading Energy Lawyers 2017*
- *The Lexpert Guide to the Leading US/Canada Cross-Border Litigation Lawyers in Canada* - 2013-2017 (Ranked as a Litigation Lawyer to Watch)
- *The Best Lawyers in Canada* - 2011-2019 (Corporate and Commercial Litigation, Alternative Dispute Resolution, Construction Law, Class Action Litigation, Insurance Law, Product Liability Law, Appellate Practice and Directors & Officers Liability)

PUBLICATIONS

Co-author: Not Above the Rules: Alberta Court of Appeal Dismisses Self-Represented Action for Delay
Blakes Bulletin on Litigation & Dispute Resolution, June 5, 2019.

Co-author: Alberta Court Releases Precedent-Setting Decision on Insurers' Right and Duty to Defend
Blakes Bulletin on Litigation & Dispute Resolution, March 14, 2018.

Co-author: Third Parties to Arbitration Agreements
ADR Perspectives, Vol. 5, No. 1, February 2018.

Co-author: Canada Proposes New Regulations to Strengthen Rail Security for the Transportation of Dangerous Goods
Blakes Bulletin on Environmental Law, July 10, 2017.

Co-author: Plan of Arrangement: A Vote for All? Not So, Says Court of Appeal
Blakes Bulletin on Litigation & Dispute Resolution, November 30, 2016.

Co-author: A New Arrangement? Alberta Court Requires Shareholder Vote for Acquiring Company in a Plan of Arrangement
Blakes Bulletin on Litigation & Dispute Resolution, October 11, 2016

PROFESSIONAL APPEARANCES

Panellist: Three Perspectives on Experts
WCCAS 13th Annual Energy, Mining and Resources Arbitration Conference, Calgary, Alberta, May 7, 2019.

Speaker: From the Bench to Real Life - Gauging the Practical Impacts of Case Law on Construction Projects Across Canada
Canadian Institute's 11th Annual Managing Risk in Construction Contracts & Projects, Edmonton, Alberta, January 29, 2019.

Co-speaker: The Art of Arbitration: Role of In-House Counsel
In-House Counsel Network Luncheon Seminar, Calgary, Alberta, May 17, 2018.

Instructor: Civil Trial Advocacy
The Advocates' Society Civil Trial Advocacy College, Calgary, Alberta, May 15-16, 2018.

Moderator: Third Party Litigation Funding
12th Annual WCCAS Energy, Mining and Resources Arbitration, Calgary, Alberta, May 8, 2018.

Panel Speaker: Cross Country Check Up, and Beyond

Ontario Bar Association 9th Annual Class Action Colloquium, Toronto, Ontario, December 4, 2017.

Speaker: Case Law Update: Important Takeaways for Every Infrastructure Professional

Legal Issues in Project Management and Infrastructure Development conference, Canadian Institute, Calgary, September 26-27, 2017.

Co-speaker: Arrangements under the Business Corporations Act

Seventh Annual Securities Symposium, The Advocates' Society, Toronto, Ontario, September 11, 2017.

Co-speaker: How to Beef Up Remedy Provisions in this Economy

Advanced Contract Negotiations - Part II, Association of Corporate Counsel, Alberta Chapter, Calgary, Alberta, June 1, 2017.

Speaker: To Arbitrate or Litigate

Panel Discussion, 16th Annual Spring Symposium: The Advocate Matters, The Advocates' Society, Toronto, Ontario, April 27, 2017.

Co-chair: A Special Litigation Presentation: Arbitration Advocacy

The Advocates' Society, Calgary, Alberta, November 3, 2016.

PROFESSIONAL ACTIVITIES

David regularly speaks at conferences throughout Canada on topics that impact the areas of law in which he practices. He is also active in many volunteer organizations.

EDUCATION

Admitted to the Alberta Bar - 1996

LL.B., University of Toronto - 1995

B.A., University of Alberta - 1991