

# CURRICULUM VITAE

**Robert A. Rakochey**  
**Macleod Dixon LLP**  
**3700 Canterra Tower**  
**400 – 3<sup>rd</sup> Avenue S.W.**  
**Calgary, Alberta**  
**T2P 4H2**

**(403) 267-8234**

**e-mail: [rob.rakochey@macleoddixon.com](mailto:rob.rakochey@macleoddixon.com)**

---

## **Professional Experience**

I have practised in the area of dispute resolution (arbitration, litigation and mediation) at Macleod Dixon LLP since being called to the Alberta Bar in 1990. I have appeared as counsel in the Provincial Court of Alberta, Court of Queen's Bench of Alberta, the Court of Appeal of Alberta and various courts through the Federal Court system, both as counsel for litigants, and as an *ad hoc* prosecutor. I have acted on numerous occasions in alternative dispute resolution proceedings, including private and judicial mediation as well as arbitration.

My practice in dispute resolution is varied. I routinely provide advice to corporations, insurance companies, major financial institutions and captive lenders, on a variety of issues, including contractual and commercial claims, insurance matters (both with respect to liability defence as well as coverage) shareholders disputes, oil and gas issues and shareholder disputes.

## **Education**

Bachelor of Commerce (with distinction)	1986, University of Alberta Edmonton, Alberta
Bachelor of Laws	1989, University of Alberta Edmonton, Alberta
Intensive Trial Advocacy	1991, University of Calgary Calgary, Alberta
Alberta Arbitration & Mediation Society Certificate in Arbitration	2007

## Professional

Articles of Clerkship Macleod Dixon LLP	1989 - 1990
Admitted to the Alberta Bar	August 10, 1990
Associate, Macleod Dixon LLP	August 1990 to January 1997
Partner, Macleod Dixon LLP	February 1, 1997 to present
Chair Macleod Dixon LLP's Occupational Health & Safety Group	2002 to present
Defence Research Institute (DRI) Professional Responsibility Committee	2005 to present

## Memberships

Law Society of Alberta

Canadian Bar Association

Canadian Defence Lawyers

Calgary Bar Association

Defence Research Institute (DRI)

Honourable Order of the Blue Goose International, 1991 to present

## Lectures and Publications

Lecturer, Canadian Association of Equipment Distributors on *Personal Property Security Act* and Recovery Issues, April 1992

Lecturer, Canadian Bar Association, Young Lawyers Subsection on *Civil Enforcement Act*, February 1996

Lecturer, Society of Fellows in Insurance on Host Liquor Liability, "To Serve or Not to Serve: Measures to Manage your Potential Liability", February 1996

Insight Seminar, Lecture for the Society of Trust and Estate Practitioners, "Asset Protection and the Law of Creditors' Rights", January 24, 1997

Speaker, Canadian Bar Association, "Asset Protection Strategies," April 1997

Lecturer, "Asset Protection Strategies and the Law on Creditors' Rights in Estate Planning," 1997

Lecturer, "Response to Environmental Disasters," Executive Enterprises, 1997

Lecturer, Insurance Seminar on Fatality Assessments, "Understanding Loss of Income Claims", March 5, 1998

Lecturer, Federated Insurance Company of Canada, Education Seminar, "Changes to the Alberta *Hospitals Act*: The Removal of the Government's Right to Recovery in Motor Vehicle Accidents", 1999

Lecturer, Canadian Association of Financial Planners, "Boom, Bust, Liable – An Explanation of Liability Issues for Financial Planners and Suggestions on How to Avoid Liability", June 20, 2000

Lecturer, Allstate Insurance Education Seminar, "Everything an Insurance Company should know about Contingency Agreements" and "Insurance Law Update", August 31, 2000

Lecturer, Society of Trust and Estate Practitioners, Asset Protection Planning, "Nowhere to Hide – Debtor and Creditor Law in Alberta", May 2003

Lecturer, Class Action Seminar, Solicitor and Client Privilege, "It's a Privilege ... Don't Lose It", October 2003

Author, article for Lexpert Magazine, "Parental Liability for Children's Actions", February, 2004

Lecturer, Canadian Bar Association, Litigation Subsection, "A Review of Whiplash Decisions in Alberta", May 2004

Lecturer, "Mission Possible – Cracking the Occupational Health & Safety Code", October 4, 2004

Lecturer, High Technology Crime Investigation Association, "Acceptable Use Policies – Criminal Law, Civil Law and Practical Applications", September 2005

Lecturer, Petroleum Technology Alliance Canada Seminar on Wireless and Telecommunications Technology, "Occupational Health & Safety Law for Lone Workers: Compliance and Good Practice", October 6, 2005

Lecturer, Canadian Bar Association, Alberta Law Conference "Advising a Debtor - Liability and Applicable Considerations", March 9 & 10, 2006

Lecturer, Lorman Seminar on Employee Leave Issues, "The Risks of Playing 'Hardball' – Some Thoughts on *Keays v. Honda Canada Inc.*", May 3, 2006

Lecturer, Seminar on practicing estate planning, for the Society of Trust and Estate Practitioners, "Advising a Debtor – Liability and Ethical Considerations", May 18, 2006

Lecturer, Lorman Seminar on Drug Testing in the Workplace, "Balancing Human Rights and Safety", December 1, 2006

Lecturer and Moderator, Lorman Seminar on Builders' Liens in Alberta, December 4, 2007

Numerous other lectures and continuing legal education seminars for clients on various topics including insurance-related issues, issues relating to litigation preparedness, occupational health and safety, class actions, commercial issues and matters relating to the *Personal Property Security Act*.

## **Representative Cases**

### ***General Commercial Matters***

Acted for an international home builder regarding faulty windows supplied to a major construction project in Japan.

Acted for a joint venture partner in a start up insurance agency business which failed resulting in significant claims.

Acted in the defence of claims of breach of fiduciary duty and conversion of corporate opportunity relating to an environmental de-watering business.

Acted for a Calgary hotel in relation to claims arising from significant damages as a result of breaches by a service contractor.

Acted for a dentist involving significant damages resulting from the improper supply of materials by one of his service providers.

Acted for a multi-national logistics corporation in respect of claims and recovering outstanding invoices in South America.

Acted for an accountant obtaining a permanent restraining order and damages against a stalker.

Acted for several investors in a multi-million dollar real estate venture in disputes with other investors.

Acted for a real estate development consortium with respect to defaults by tenants, construction issues including liens and contractor liability, and pursuing financial obligations including guarantees and indemnity agreements.

Acted for a master franchisor in the food service industry with respect to real estate issues, liability for losses and dealing with franchisee defaults.

Acted and continue to be counsel for a major Calgary foundation with respect to all of its legal issues including matters relating to its organization, liability of its member groups, employment issues and human rights complaints.

Acted for a telecommunications company relating to matters of securitizing the obligations of its members and pursuing recovery when in default.

Routinely act for a bailiff and security company with respect to all issues that arise from the bailiff and security services.

Acted for a captive lender in precedent setting litigation surrounding imperfect registrations at the Personal Property Registry.

Acted for a lender of floor plan financing to a major construction and farm equipment dealership pursuing recovery.

Acted for a lender of financing of equipment and helicopters including the recovery of same in other international jurisdictions.

Acted for a business in prosecuting internet defamation including determining the identity of the maker of the statements.

Acted for a large Alberta construction and development company in both pursuing a defaulting tenant as well as defending a multi-million dollar counter-claim.

Acted for the owner of a commercial building in relation to a significant environmental contamination caused by activities on neighbouring properties.

Acted for an international businessman in recovering monies fraudulently removed from a foreign jurisdiction which were brought to Canada and subsequently diverted to the United States.

Acted as an ad hoc prosecutor for the Department of Justice in matters relating to prosecutions of federal statutes.

Acted in the defence of a real estate company relating to misrepresentations surrounding the purchase of a commercial building.

Acted in the defence of a property owner with respect to damages alleged to have occurred from an excavation and the alleged loss of lateral support.

Acted for the purchaser of an insurance brokerage in respect to disputes arising from the agreement.

Acted for the purchaser of a United States sports team in a claim for misrepresentation and damages against the vendors.

Acted for a manufacturer and distributor of collectible pins in a licensing dispute.

Acted for a motor repair business in appealing an adverse tax ruling by Revenue Canada.

Acted for the father of a resident in the United States in an international custody dispute over his child, who was born in Canada and given up for adoption.

Acted for a commercial developer of a commercial property in respect of deficiencies and in the defence of claims by other contractors.

Acted for a major Alberta construction firm relating to deficiencies from the construction of a major commercial mall centre and a multi-story high rise building in downtown Calgary.

Acted for an inventor of proprietary pipe coatings and defence of breach of confidence claim and in defence of an injunction.

Acted for an under balanced drilling company defending claims of fraud and misappropriation of confidential information.

Acted for an accounting professional in disciplinary proceedings.

Acted for a geophysical company in relation to the loss of a portion of its confidential and proprietary software.

Acted for a mortgage broker in relation to losses of confidential client information and conversion of corporate opportunities.

### ***Oil and Gas Matters***

Acted for a junior oil and gas company regarding negligence in drilling operations and the consequential economic loss in the production of the field.

Acted for a major oil and gas company in recovering in excess of \$100,000,000 relating to a breach of confidential information, as well as defending a multi-billion dollar counter-claim relating to allegations of intentional interference with economic activity.

Acted for an oil and gas company in relation to disputes with its joint venture partners on matters of accounting and operations.

Acted for an oil and gas company in relation to alleged negligence and breach of contract by a drilling engineering firm resulting in the loss of a well and significant consequential damages

Acted for an oil and gas exploration company in a commercial dispute regarding entitlement to certain oil field equipment and its proceeds.

Acted for a senior oil company executive concerning matters of disability and termination.

Acted for a shareholder against a public oil and gas company in respect of issues of oppression and alleged fraudulent activities of its Board of Directors.

Acted for an oil and gas testing company in defence of allegations of breach of fiduciary duty and confidentiality by a competitor.

Acted as counsel to a special committee appointed in a public oil and gas company with respect to concerns of impropriety by management.

### ***Employment Matters***

Acted for a multi-national and international group of companies with respect to breaches by certain employees and contractors including issues of fraud.

Acted for and continue to act for several automobile dealerships concerning all matters such as product liability, commercial disputes, real estate issues and employment issues.

Acted for an employee regarding serial sexual abuse and harassment in the workplace.

Acted for a manufacturer of novelty items in seeking an injunction to enforce a non-competition term in a former employee's employment agreement, as well as defending a claim at the Human Rights Commission.

Acted for a major international engineering company in relation to recovery of funds fraudulently obtained by a senior officer.

Acting for a commercial hydro-vac company with respect to a fatality resulting from a motor vehicle accident.

Acted for an international chair manufacturer prosecuting a former officer and manager for fraud and conversion of corporate opportunities.

Acted for a senior officer of an international joist manufacturing company in a wrongful dismissal claim arising from a project in Germany.

Acted for an international manufacturing firm concerning a complex fraudulent scheme by one of its employees.

### ***Insurance and Tort Matters***

Acted for a professional liability insurer in a subrogation matter dealing with recovery of fraudulent activities.

Acted for a major national manufacturer in relation to environmental contamination which occurred at one of its manufacturing sites.

Acted in the defence of a fire loss alleged to have occurred in an auto body business causing significant damage and loss of income to neighbouring commercial enterprises.

Acted for the purchaser of an insurance brokerage in respect to disputes arising from the agreement.

Acted for in defence of an architectural firm regarding claims relating to its design of a commercial building.

Acted for the victim of abuses suffered at the hands of the Christian Brothers of Ireland in Canada at the Mount Cashel orphanage in Eastern Canada, receiving one of the highest awards of damages.

Acted in the defence of a claim for environmental contamination caused by underground gasoline storage tanks.

Acted for a wire line company and its insurer regarding an explosion, and the damages and personal injury that resulted.

Acted in the defence of the Alberta Government with respect to a representative action for claimants alleged to have been wrongly sterilized and abused while in the care of the Government.

Acted in the defence of dentists and dental specialists in the defence of malpractice claims.

Acted for a real estate developer concerning allegations of salmonella food poisoning following a reception and dinner.

Acted in the defence of numerous motor vehicle accident claims including issues related to damages, loss of income, fatalities and other related claims.

Acted in the defence of a significant loss of income claim following a motor vehicle accident.

Acted in the defence of a significant personal injury claim arising from a recreational hockey game.

Acted for a restaurant business following a fire loss to resolve disputes with respect to coverage.

Acted for a national disability insurer defending a claim of bad faith by an insured.

Acted as counsel to a Hong Kong law firm in relation to proving damages in a significant motor coach accident.

Acted for an individual suffering from catastrophic injuries as a result of being underneath a mobile home when a winch failed on a truck.

Acted in the defence of an insurance brokerage with respect to coverage disputes and claims of inadequate coverage in relation to a major hail claim for numerous automobile dealers.

### ***Bankruptcy & Insolvency***

Acted and continued to act for numerous financial institutions and captive lenders on matters of commercial recovery, including bankruptcy and insolvency issues.

Acted for several trustees in bankruptcy on issues related to bankruptcy matters including liability of the Trustee, priority disputes between creditors, issues related to *Companies Creditors' Arrangement Act* matters, and other issues related to bankruptcy and insolvency.

Acted for a wire line company in pursuing a large indebtedness and recovery from claims filed on mines and minerals leases.

Acted for financial institutions, captive lenders and other creditors with respect to issues such as priority disputes between secured creditors, matters relating to bankruptcy and insolvency, debt recovery including participation in *Companies Creditors' Arrangement Act* arrangements and other workout proposals.

### ***Estate Matters***

Acted for a major national trust company in relation to estate disputes.

Acted for a major charitable foundation with respect to disputes on bequests and challenges to the capacity of the donors.

Acted for a beneficiary in a substantial estate resolving issues with the executor and other beneficiaries.

Acted for a multi-million dollar family trust in relation to variation of trust issues.

### ***Occupational Health and Safety Matters***

Acted for various businesses advising on occupational health and safety matters related to both serious injuries and deaths of employees.

**COMMUNITY INVOLVEMENT**

1990 – present	Member, Rotary Club of Calgary, North
1993 – 1998	Director, Rotary Club of Calgary North
1999 – 2000	President, Rotary Club of Calgary North
1995 to 2004	Member, Senior Advisory Committee of the Crohn's and Colitis Charity Golf Tournament
2003 and 2004	Tournament Chairman of the Crohn's and Colitis Charity Golf Tournament
1993 to 2008	President, Calgary Handball Club
1995 to 2008	Director, Alberta Handball Association
2008	President, Alberta Handball Association
2004 to present	Director and Founder of Business Fore Calgary Kids Foundation
1999 – 2001	Director, Waterton – Glacier International Peace Park Association
2001 – present	Volunteer for YMCA Calgary – Eau Claire Branch