

Michael Swartz

Partner

Toronto

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Practice Areas

Construction

Infrastructure/P3

Litigation & Dispute

Resolution

Michael Swartz devotes his practice to construction law. He represents clients from across the construction industry, in all aspects of projects and construction-related issues.

Michael represents clients from across Ontario in his construction law practice. He is involved in every facet of the construction industry, including strategy development – from project inception to completion. He is experienced in structuring tendering and contract documents related to all aspects of development. Michael's practical and time-saving advice has resolved wide-ranging issues arising from procurement and contract disputes and lien, trust and delay claims.

Michael appears frequently before various boards, tribunals and courts, including the Ontario and Superior Courts of Justice, the Ontario Court of Appeal and the Federal Court of Canada.

Michael speaks regularly to various associations and groups on topical issues concerning the construction industry. He provides clients with timely and relative updates on court cases, decisions and statute changes. Michael has taught Construction Law courses for the Ontario General Contractors Association and George Brown College since 2006.

In 2017, Michael was selected by the Toronto Construction Association (TCA) Nominations & Awards Committee as the winner of the 2016 TCIC Chancellor's Award of Excellence. He is also listed in the *Canadian Legal Expert Directory* as a repeatedly recommended lawyer in Construction Law and is recognized by *Best Lawyers in Canada* as a leading practitioner in Construction Law.

Alternative dispute resolution can play a critical role in moving beyond an impasse and getting on with what is really important. Recognizing this, Michael has spent his career training to effectively mediate both as counsel and as a mediator. Michael is available to provide his mediation or arbitration services. To book a mediation or arbitration date, please contact him directly for his availability.

WeirFoulds LLP

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Called to the Bar	Education	Affiliations
<ul style="list-style-type: none"> • Ontario (2002) 	<ul style="list-style-type: none"> • LL.B., University of Windsor, 2001 • B.A. (Hons.), University of Windsor, 1998 	<ul style="list-style-type: none"> • Ontario Bar Association, Construction and Infrastructure Law Section Executive • Ontario Bar Association, Civil Litigation Section • Toronto Construction Association • The Advocates' Society • The Osgoode Society • Toronto Lawyers' Association

Reported Cases

Maystar General Contractors Inc. v. Newmarket (Town) (2008), 69 C.L.R. (3d) 186 (S.C.J.); affirmed by (2009) 82 C.L.R. (3d) 169 (Ont. C.A.); additional reasons in (2008) 171 A.C.W.S. (3d) 269 (S.C.J.).

Ciardullo v. Premetalco Inc. (2009), 82 C.P.C. (6th) 148 (Ont. S.C.J.).

Tubacex & Cotubes Canada Inc. v. Scan Tube & Steel Services Ltd. (2009), 176 A.C.W.S. (3d) 92 (Ont. S.C.J.).

Commandant v. Wahta Mohawks (2008), 68 Admin. L.R. (4th) 161 (F.C.T.D.); appealed (2008), 77 Admin. L.R. (4th) 241 (Fed. C.A.).

Hickey v. Tri-Green Construction Inc. (July 17, 2007), [2007] O.L.R.B. Rep. 831 (Ontario Labour Relations Board).

Commandant v. Wahta Mohawks et al. (2006), 48 C.C.E.L. (3d) 29 (S.C.J.); leave to appeal granted (2006), 48 C.C.E.L. (3d) 38 (S.C.J.); appeal dismissed, [2006] O.J. No. 4588 (Div. Ct.).

Braithwaite Technology Consultants Inc. v. Blanketware Corp. (2005), 72 O.R. (3d) 611 (S.C.J.).

Paletta International Corp. v. Canada Life Mortgage Services (2003) 9 R.P.R. (4th) 1 (C.A.); leave to appeal denied [2003] S.C.C.A. No. 260 (S.C.C.).

Awards

- Repeatedly recognized by *Best Lawyers in Canada* as a leading lawyer in Construction Law
- Repeatedly recognized in the *Lexpert Special Edition: Infrastructure*
- Repeatedly recognized in the *Canadian Legal Lexpert Directory* as a leading practitioner in Construction Law
- TCIC Chancellor's Award of Excellence, 2017
- Distinguished Volunteer Award, Toronto Construction Association, 2013

Professional Activities

- Toronto Construction Association: Industry Practices Committee (2014-Present)
- The Advocates' Society – Construction Law Practice Group Executive, Vice-Chair, 2015-2016
- The Advocates' Society; Construction Law Practice Group, Task Force Member on Construction Lien Act Reform, 2015
- Ontario Bar Association Committee on Construction Lien Act Reform, Subcommittee Co-Chair, "Dispute Resolution Procedures", 2015
- Instructor, George Brown College, 2005 – Present

Community Involvement

Sherwood Park Advisory Committee, North Toronto

Speaking Engagements

- Instructor, "Construction Law Update", Clark Construction Management, Online, May 17 - June 21, 2024
- Instructor, "The Construction Act", The Construction Institute of Canada, Webinar, June 6, 2024
- Instructor, "Bid Theory and Bid Practice", Ontario Association of Architects Online Admission Course, Online, May 22, 2024
- Instructor, "Construction Contracts 101: Smooth Sailing or Gale Force Winds", The Construction Institute of Canada, Webinar, May 8 & May 9, 2024
- Instructor, "Bidding & Tendering", The Construction Institute of Canada, Webinar, April 3 & April 9, 2024
- Instructor (with Krista Chaytor), "Construction Contracts 101: Smooth Sailing or Gale Force Winds", The Construction Institute of Canada, Online, August 2nd - 4th, 2023
- Speaker (with Jeff Scorgie), "Hierarchy of Precedence Construction Contracts", Architectural Woodwork Manufacturers Association of Canada 2023 National Convention, Toronto, ON, June 10, 2023
- Speaker (with Jeff Scorgie), "Top 10 Red Flags to Look for When Bidding on or Negotiating Construction Contracts", Kingston Construction Association, Kingston, ON, April 11, 2023
- Instructor (with Krista Chaytor), "CCDC2 - 200 (Everything You Need to Know but Haven't Asked About Yet)", The Construction Institute of Canada, February 8, 2023
- Co-Speaker (with Krista Chaytor), "Construction Contracts: Assessing and Managing Risks – Part 2", Private Webinar Series for an Owner in conjunction with The Construction Institute of Canada, October 31, 2022
- Co-Speaker (with Krista Chaytor), "Construction Contracts: Assessing and Managing Risks – Part 1", Private Webinar Series for an Owner in conjunction with The Construction Institute of Canada, July 8, 2022
- Co-Speaker (with Krista Chaytor), "Construction Contracts 101: Smooth Sailing or Gale Force Winds", Webinar Series, The Construction Institute of Canada, March 29-31, 2022
- Co-Speaker (with Jeff Scorgie), "New CCA 1-2021 Stipulated Price Subcontract & Best Practices: What you need to know", Webinar, Link2Build, March 23, 2022
- Co-Speaker (with Krista Chaytor), "The Law of Procurement", Webinar Series, The Construction Institute of Canada, March 7-9, 2022
- Guest Speaker, "Bid Theory", Ontario Association of Architects and University of Toronto,

2022 On-line Continuing Education Course, March 2, 2022

- Co-Speaker (with Krista Chaytor), "Supply Chain Woes: Breaches, Claims, Delay and More – Tips for Handling Price Escalations, Material Shortages and Supply Chain Delays", Webinar, The Construction Institute of Canada, February 28, 2022
- Speaker, "6th Annual Conference on Managing Risk in Construction Contracts & Projects", Canadian Institute, Online Hybrid, February 24, 25, 2022
- Co-Speaker (with Krista Chaytor), "CCDC2 – 2020 (Everything You Need to Know But Haven't Yet Asked)", Webinar, The Construction Institute of Canada, June 9, 2021
- Speaker, "CCDC 2 Updates", International Institute of Building Enclosure Consultants - Southern Ontario Chapter, Online, May 26, 2021
- Speaker, "CCDC 2 Updates Webinar", Sealant and Waterproofing Association, Online, April 20, 2021
- Co-Speaker (with Krista Chaytor), "Construction Contracts 101: Smooth Sailing or Gale Force Winds", Webinar Series, The Construction Institute of Canada, March 23, 24 and 25, 2021
- Co-Speaker (with Jeff Scorgie), "New CCDC 2 – Stipulated Price Contract & Contract Best Practices: What you need to know", Webinar, presentation for a private institute, Toronto, March 17, 2021
- Guest Speaker, "Bid Theory", Ontario Association of Architects and University of Toronto, 2021 On-line Continuing Education Course, March 3, 2021
- Co-Speaker (with Jeff Scorgie), "New CCDC 2 – Stipulated Price Contract & Contract Best Practices: What you need to know", Webinar, Kingston Construction Association, March 10, 2021
- Co-Speaker (with Krista Chaytor), "Bidding & Tendering", Webinar Series, The Construction Institute of Canada, February 24, 25 and 26, 2021
- Co-Speaker (with Krista Chaytor), "The New Construction Act: Two Years In ... and Counting!", Webinar Series, The Construction Institute of Canada, November 25, 2020
- Guest Speaker, "Bid Theory", Ontario Association of Architects and University of Toronto, 2020 On-line Continuing Education Course, November 25, 2020
- Panelist, "Risks in Construction Contracts – Unforeseen or Unforeseeable", at "5th Annual Managing Risk in Construction Contracts & Projects", The Canadian Institute, Toronto, July 9-10, 2020
- Guest Speaker, "Bid Theory", Ontario Association of Architects and University of Toronto, 2020 On-line Continuing Education Course, June 3, 2020
- Co-Speaker (with Krista Chaytor), "Construction Contracts: Assessing and Managing Risks", Webinar Series, The Construction Institute of Canada, April 27 - May 1, 2020
- Co-Speaker (with Brian Kuchar, Raj Datt and Marie-Pier Nadeau), COVID-19: Construction Services Update, "Timing of Rights, Lien Periods and Release of Holdback" and "Insurance Considerations"; On-line presentation by WeirFoulds LLP, March 30, 2020
- Co-Speaker (with Krista Chaytor), "The New Construction Act: The Old, The New, and the Really, Really New!", The Construction Institute of Canada, Richmond Hill, ON, March 11, 2020
- Co-Speaker (with Krista Chaytor), "The New Construction (Lien) Act: Time Periods, Prompt Payment and Adjudication", Ontario Petroleum Contractors Association", Toronto, ON, March 4, 2020
- Guest Speaker, "Bid Theory", Ontario Association of Architects and University of Toronto, 2020 On-line Continuing Education Course, March 4, 2020
- Co-Speaker (with Brian Kuchar), "The New Construction Act: What You Need to Know", presentation for a private institute, Toronto, ON, February 23, 2020

- Co-Speaker (with Krista Chaytor), "The New Construction Act: What's New and What's Really, Really New!", presentation for a private institute, Toronto, ON, February 14, 2020.
- Guest Speaker, "Bid Theory", Ontario Association of Architects and University of Toronto, 2019 Online Continuing Education Course, December 4, 2019
- Guest Speaker, "Construction Documentation: A Legal Perspective", Toronto Construction Association, November 13, 2019
- Guest Speaker, "Bidding and Bid Theory", Ontario Association of Architects, 2019 Admissions Course, Toronto, November 9, 2019
- Co-Speaker (with Glenn Ackerley), "Delay Claims", Presentation Delivered to a Private Institution, November 7, 2019
- Speaker, "The New Construction Act: The Arrival of Prompt Payment and Adjudication", Belleville, ON, October 18, 2019
- Co-Speaker (with Krista Chaytor), "The New Construction Act: What's New and What's Really, Really New!", The Construction Institute of Canada, Toronto, ON, October 9, 2019
- Speaker, "The New Construction (Lien) Act", Prince Edward County Construction Association, September 10, 2019
- Co-Speaker (with Krista Chaytor), "Construction Contracts: Assessing and Managing Risks", Gold Seal Accredited Course for the Peterborough and District Construction Association, Peterborough, ON, September 9, 2019.
- Co-Speaker (with Krista Chaytor), "Construction Contracts: Assessing and Managing Risks", Gold Seal Accredited Course for The Construction Institute of Canada, Toronto, ON, June 5, 2019.
- Co-Speaker (with Faren Bogach), "The New Construction Law Act", Presentation Delivered to a Private Institution, May 10, 2019
- Co-Speaker (with Jeff Scorgie), "Identifying & Managing Risk in Construction Documents with the New Construction Law Act", Presentation Delivered to a Private Institution, May 1, 2019
- Co-Speaker (with Glenn Ackerley), "Construction Law Update: This Year's Must-Know Construction Cases", 11th Construction Symposium, Ontario General Contractors Association, Collingwood, April 12, 2019
- Instructor, "Construction Liens and Trusts", The Construction Institute of Canada, Toronto, ON, March 27, 2019
- Co-Chair, "4th Annual Managing Risk in Construction Contracts & Projects", The Canadian Institute, Toronto, February 5, 2019
- Guest Lecturer, "Contracts" and "Interpreting and Drafting Contracts", George Brown College, BLDG 3151 Construction Law - Case Studies Course, January 15, 2019
- Guest Speaker, "Bid Theory", Ontario Association of Architects and University of Toronto, 2018 Online Continuing Education Course, Online, December 5, 2018
- Speaker, "The New Construction Act: Update", Seminar, The Construction Institute (Toronto Construction Association), October 4, 2018
- Guest Speaker, "Bid Theory", Ontario Association of Architects and University of Toronto, 2018 Online Continuing Education Course, Online, June 13, 2018.
- Instructor, "Bid Theory & Bid Practice", Ontario Association of Architects, 2018 Admissions Course, Toronto, May 25, 2018.
- Instructor, "Construction Liens and Trusts", The Construction Institute of Canada, Toronto, ON, November 22, 2017.
- Speaker, "The Construction Lien Act" Festival of Architecture, Ottawa, ON, May 26, 2017.
- Speaker, "Bid Theory", Festival of Architecture, Ottawa, ON, May 25, 2017.

- Instructor, "Bid Theory & Bid Practice", Ontario Association of Architects, 2016 Admissions Course, Toronto, November 12, 2016.
- Speaker, "The Construction Lien Act: Latest Developments in Liens and Trusts", The Construction Institute (Toronto Construction Association), June 29, 2016.
- Speaker, "Identifying & Managing Risk in Construction Documents", Seminar, The Construction Institute (Toronto Construction Association), June 15, 2016.
- Instructor, "Bid Theory", Ontario Association of Architects, 2016 Admissions Course, Toronto, May 12, 2016.
- Speaker, "Construction Liens and Condominiums", Practice Gems: Construction Lien Essentials 2016, Law Society of Upper Canada, March 9, 2016.
- Presentation, "CCDC 14 and 15 Contracts: What you need to know...", Seminar Delivered to Private Institution, January 13, 2016.
- Instructor, Construction Law and Contracts 2.0, ORBA's Annual Road Building Academy, February 29-March 1, 2016
- Instructor, Ontario General Contractors Association, Construction Law (Gold Seal), October-December 2015.
- Speaker, "Risk Avoidance, Liens and Construction Claims", Jones DesLauriers Insurance Management Inc. - Construction Conference, November 16, 2015.
- Speaker, "Identifying & Managing Risk in Construction Documents", Seminar, The Construction Institute (Toronto Construction Association), November 11, 2015.
- Speaker, "Identifying & Managing Risk in Construction Contract Documents", Seminar, Architectural Woodwork Manufacturers Association of Canada (AWMAC) Ontario Chapter, October 15, 2015.
- Instructor, "Bid Theory", Ontario Association of Architects, 2014 Admissions Course, Hamilton, May 7, 2015.
- Instructor, "Construction Law" and "Advanced Construction Law", Ontario Road Builders' Association, Barrie, February 23-25, 2015.
- Speaker, "The Construction Lien Act: Latest Developments in Liens and Trusts", The Construction Institute (Toronto Construction Association), May 2014.
- Instructor, "Bid Theory", Ontario Association of Architects, 2014 Admissions Course, Montreal, Quebec, May 9, 2013.
- Instructor, "Construction Law", Ontario Road Builders' Association, Mississauga, February 25 and 26, 2014.
- Instructor, Ontario General Contractors Association, Construction Law (Gold Seal), January-April 2014.
- Speaker, "The Construction Lien Act: Liens and Trusts", Architectural Woodwork Manufacturers Association of Canada, October 2013.
- Speaker, "The Construction Lien Act: Latest Developments in Liens and Trusts", The Construction Institute (Toronto Construction Association), October 2013.
- Instructor, "Bid Theory", Ontario Association of Architects, Admissions Course, May 8, 2013.
- Speaker, "Minimizing Damages: Claims Lessons Learned", 9th Minimizing Construction Risk, Federated Press, May 7, 2013.
- Speaker, "Understanding the Pitfalls and Practices of Tendering in the Construction Marketplace - Tender Legalities", The Construction Institute of Canada, May 6, 2013.
- Instructor, "Construction Project Risk Management From a Legal Perspective", Toronto Chapter of the Institute of Internal Auditors, April 23, 2013.
- Speaker, "Putting Your Best Foot Forward: Winning Claims Strategies", 8th OGCA Symposium,

Collingwood, April 12, 2013.

- Instructor, "Construction Law", Ontario Road Builders' Association, Mississauga, March 6-7, 2013.
- Speaker, "The Construction Lien Act: Latest Developments in Liens and Trusts", The Construction Institute (Toronto Construction Association), February 2013.
- Instructor, "Construction Law and Risk Management", Toronto Chapter of the Institute of Internal Auditors, May 1, 2012.
- Speaker, "The Construction Lien Act: Latest Developments in Liens and Trusts", The Construction Institute (Toronto Construction Association), June 2011.
- Instructor, "Construction Law", Ontario Road Builders' Association, Mississauga, February 28-March 2, 2011.
- Speaker, "When You Sue – What Your Documents Say and Do!", Ontario Sewer and Watermain Construction Association, Mississauga, February 16, 2011.
- Speaker, "Drafting Your Agreements to Minimize Challenges and Disputes, Infonex, *Profit from Knowledge*, Toronto, November 16, 2010.
- Instructor, *Law and Construction Contracts*, George Brown College, School of Construction Management and Trades, and School of Architectural Studies, January–April, 2010.
- Instructor, *Construction Law* (Gold Seal), George Brown College, School of Continuing Education, Current Course, 2005–present. Speaker, "The Construction Lien Act: Latest Developments in Liens and Trusts", The Construction Institute (Toronto Construction Association), May 2009. Speaker, "Let's Sue The @#! (How to Make the Court System Work for You)", Ontario General Contractors Association, Annual Symposium and Trade Show, April 2009.
- Lecturer, "Understanding the Pitfalls and Practices of Tendering in the Construction Marketplace: Changes to CCDC 2 - Standard Form Document: 2008 vs. 1994", The Construction Institute (Toronto Construction Association), November 2008.
- Speaker, "The Construction Lien Act: Latest Developments in Liens and Trusts", The Construction Institute (Toronto Construction Association), June 2008.
- Speaker, "CCDC2 - 2008: What's New? What's Different? What's Same Old?", Ontario General Contractors Association, Annual Symposium and Trade Show, April 2008.
- Speaker, "Making Your Blackberry Work for You", Toronto Construction Association, January 16, 2008.
- Instructor, Ontario General Contractors Association, *Construction Law* (Gold Seal), 2006–present.

Additional Publications

- Co-author (with Krista Chaytor and Brian Kuchar), "[Resolving Construction Disputes in a COVID World](#)", *The Generals*: Ontario General Contractors Association, Fall/Winter 2020
- Co-author (with Krista Chaytor and Brian Kuchar), "Pandemic Pandemonium! Construction Claims and COVID-19", *Piling Canada* Q2, 2020
- Co-author (with Krista Chaytor), "Getting Ready for Prompt Payment in Ontario: Other provinces are likely to follow suit", *Canadian Petroleum Contractor Magazine*, Canadian Petroleum Contractor Association, December 2019

Media Mentions

- *Daily Commercial News*, "[Legal Notes: Understanding early occupancy under the new CDCC contracts](#)", February 2, 2022

Publications

- Here's the Drill: Early Occupancy in Construction Contracts: How does it really Work?, March 30, 2022
- Lien Rights: To Assign or Not to Assign (Should you ask the question?), July 27, 2021
- Only Bricks and Mortar? Your Performance Bond Might Cover More Than You Think, March 17, 2021
- Condominiums & Construction Liens, January 29, 2019
- Things That Can Happen to a Municipal City Councillor, November 12, 2012
- Quiz: Side-stepping procurement traps, June 11, 2012
- Dealing With Construction Liens, September 01, 2007