

# Macdonald Allen

Partner

## Toronto

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## Practice Areas

Commercial Leasing  
Commercial Litigation  
Employment & Labour  
Litigation & Dispute  
Resolution  
Sports  
Technology & Intellectual  
Property

Macdonald Allen is a partner in the litigation practice group at WeirFoulds LLP. He practises in a range of commercial and civil litigation matters.

Mac's practice is diverse and his advice achieves client goals in a direct, and efficient manner. Mac primarily litigates business disputes and he has experience navigating disputes in the following areas: bankruptcy, restructuring and insolvency, contract and shareholder disputes, fraud and asset recovery, shipping and logistics, privacy and intellectual property, employment law, directors and officers liability, indigenous law, intellectual property law, and real property disputes including commercial leasing, real estate transactions and construction law.

Mac also has a niche practice providing stakeholders in professional and amateur sports with advice on issues related to liability, regulation, sponsorship and image rights, employment and labour, selection and morality issues. Outside of being a litigator, Mac was a professional lacrosse player for 8 seasons in the National Lacrosse League ("NLL"), and was a member of the executive committee that negotiated the NLL's collective bargaining agreement in place from 2013-2020. Mac won an NLL Championship, and three Canadian National Championships, the Mann Cup. Mac also represented Team Canada at the World Field Lacrosse Championships, and assisted the men's and women's national team players to establish the National Lacrosse Team Players Association (NLTPA).

## WeirFoulds LLP

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### Called to the Bar

- Ontario (2013)

### Education

- J.D., University of Windsor, 2012
- B.B.A., Bishop's University, 2007

### Affiliations

- Law Society of Ontario
- Ontario Bar Association
- Canadian Bar Association
- The Advocates' Society
- Professional Lacrosse Players Association

## Notable Mandates

### Contract

- Defended a company selling computers and other electronics located in California in an action commenced in Ontario claiming approximately \$1.8 million in damages for breach of contract, loss of goodwill, loss of reputation and defamation.
- Represented the owner of environmentally sustainable home in an action against a contractor for the negligent performance of the contract, defamation and damages associated therewith.
- Represented the defendant and plaintiff by counterclaim in an action where the plaintiff claimed damages arising from the termination of a construction contract, and the defendant counterclaimed for damages arising from the negligent performance of the work and the cost to remedy the deficiencies in the work.
- Represented a plaintiff from the CGI and graphic design industry in an action against a staffing agency and independent contractor for, among other things, conspiracy, and inducing breach of contract.
- Represented the plaintiff in an action for breach of contract, and inducing breach of contract against a defendant for failing to complete the sale of its business to the plaintiff, and subsequently selling the business to the co-defendant.
- Represented the defendant and plaintiff by counterclaim in an action for damages in the amount of approximately \$1 million for breach of a share purchase agreement whereby the plaintiff alleged the contract was unenforceable, and the defendant sought to enforce the terms of the contract.

### Director, Officer, Shareholder, and Corporate Litigation

- Represented the defendant and plaintiff by counterclaim in an action to determine each parties relative shareholdings in various related companies and each parties' entitlement to the profits of each company.
- Represented the plaintiffs in a breach of contract and oppression action against a mining company located in Alberta. This case went to the Alberta Court of Appeal.
- Negotiated the resignation of a director and sale of his shares during hostile interactions from the other members of the board from a notable organization in the film industry.

### Cross-Border and Inter-Provincial Litigation

- Represented a plaintiff from British Columbia to register its BC judgment in Ontario.
- Represented an Alberta corporation in an application for replevin in order to obtain possession of goods located and being improperly held in Ontario.
- Worked with Quebec counsel to negotiate a resolution on behalf of an Ontario supplier in the raw materials industry to an action brought in Quebec by a disgruntled contractor.
- Worked with Alberta counsel to defend a wrongful dismissal claim brought against an international construction company.
- Worked with Alberta counsel to advance an oppression claim through the Alberta courts, including the Alberta Court of Appeal.

### Real Property/Commercial Leasing Litigation

- Represented the plaintiff in an action for damages for the failed assignment of a purchase agreement regarding a parcel of land. The price of the assignment was valued at approximately \$9,000,000.
- Represented the plaintiff in an action claiming damages for approximately \$180,000 for breach of a commercial lease.
- Negotiated the settlement of a dispute between two adjoining commercial property owners related to a cost-sharing and management agreement. The negotiated settlement avoided litigation commenced in the Ontario Superior Court of Justice, and an arbitration under the terms of the agreement.
- Acted for the defendants to defend an action alleging fraudulent conveyance.
- Negotiated a resolution on behalf of the landlord with Provincial and Federal tax authorities regarding the outstanding tax owing by a former tenant, whose tenancy was terminated for various breaches of the lease.
- Represented a home owner against the City of Toronto in a negligent building inspection case claiming damages in the amount of \$500,000.
- Successfully defended a landlord against a claim for negligence, and loss of profit in the amount of \$500,000 arising from a fire that destroyed the premises and the tenant's property.

### **Employment Law**

- Mac regularly acts for international, and national organizations, and small businesses to provide timely and practical advice during the term of an employee's employment, up to and including the termination. Mac's employment law advice is focused on avoiding litigation. However, in some circumstances litigation is unavoidable, and Mac aims to put the employer in the best possible situation in order to rigorously, and efficiently, defend claims brought by disgruntled employees whether those claims are commenced in the civil courts, administrative tribunals, or labour and employment office. Mac has provided employment law advice to organizations in a variety of industries including, but not limited to:
  - construction;
  - telecommunications;
  - technology start-up;
  - graphic design; and
  - non-profit.
- Represented an employer in an action against a former employee for the misappropriation of company equipment, and fraudulent misrepresentation.
- Represented a construction company to defend allegations of discrimination related to sex and pregnancy before the Human Rights Tribunal.

### **Privacy / Access to Information**

- Mac has experience acting for organizational, and individual requesters in filing access to information requests and for institutions in responding to access to information requests under the *Freedom of Information and Protection of Privacy Act*, and the *Municipal Freedom of Information and Protection of Privacy Act*. Mac has experience with access to information requests in the following industries:
  - Healthcare;
  - Construction;

- University; and
- Municipal.

## Sports Law

- Mac regularly provides advice to provincial sport organizations regarding the impact, implementation, applicability and enforcement of organizational, national, and international policies. Mac provides advice to organizations and individuals with respect to, among other things, athlete eligibility requirements, organizational discipline, team/referee selection, and disputes before the Sport Dispute Resolution Centre of Canada and the Court of Arbitration for Sport.
  - Represented a national sport organization and provincial sport organization in defending a claim before the Human Rights Tribunal for discrimination based on, among other things, the transgender identity of the complainant and the impact of the World Anti-doping program on the complainant's ability to participate in sport.
  - Represented an international sporting equipment organization in the negotiation of a foreign executive's accommodation arrangement while living in Toronto, Canada.

## Awards

2014 AIJA Past Presidents' Award for Best National Report

## Community Involvement

Provided the keynote address at the 2015 OFSSA Boy's Lacrosse Championships, held at St. Michael's College School.

## Speaking Engagements

- Speaker, "Contract Fundamentals: Forbearance Agreements and Tolling Limitation Periods", 2021 In-House Counsel Update: Continuing Challenges in a Changing World, WeirFoulds, May 4, 2021
- Speaker, "Case Law Update: On A Need to Know Basis", Annual Spring Employment Law Seminar, WeirFoulds, May 9, 2019
- Speaker, "The Client Relationship", Professionalism Issues Seminar, WeirFoulds, February 27, 2019
- Speaker, "How Insurance and Indemnity Provisions Need to Work Together", The six-Minute Commercial Leasing Lawyer 2017, The Law Society of Upper Canada, February 22, 2017

## Publications

- Open Access: The Federal Court's Pilot Project for Online Access to Court Records, October 25, 2022
- *Cineworld v Cineplex*: What does it mean to operate movie theatres in the ordinary course during a pandemic?, January 06, 2022
- Rules Modernization in Ontario – O.Reg. 689/20, December 09, 2020

- Ontario Litigation Update: COVID-19, March 23, 2020
- Webinar: Employment Law Seminar, October 07, 2019
- The Civil Trial in Ontario: The Culture Shift from the “Sport of Kings” Towards the “One Judge Model”, January 24, 2019
- Premises Damaged by Fire? Don't Be Left Holding the Bag, June 13, 2016
- Levelling the Playing Field: CCES Guidance for Creating Inclusive Environments in Sports, June 09, 2016
- Case Commentary: Supreme Court Tightens Standard of Review for Contract Interpretation, May 17, 2016
- Quiz: Timely Responses to Access to Information Requests, March 23, 2015
- Beware: Insurance, Indemnity, and Terms Not As They Appear, January 30, 2015
- A Year in Review: The Far Reach of the IRS in Canada Foreign Account Tax Compliance Act, January 23, 2015