

# TONY KNOX

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LAW SCHOOL  
**Cambridge  
University, 1975  
Dalhousie  
University,  
LLB, 1976**

BAR ADMISSIONS  
**British Columbia,  
1981  
Ontario, 1978**

ARBITRATION  
**B.C. Arbitration  
and Mediation  
Institute,  
Arbitration  
Course  
Parts II and III,  
2009**

I began practice in 1977 at the then Toronto firm of Borden & Elliot, now Borden Ladner Gervais LLP. I practised there until 1981 when I came home to British Columbia and joined the exciting young firm of Shrum, Liddle and Heberton in Vancouver. I became a partner there in 1982 and resigned that partnership as of the end of 2009. In that time, Shrum's merged with McCarthy & McCarthy of Toronto and later with Clarkson Tétrault of Montreal to form McCarthy Tétrault LLP.

Through all that time, I had a very varied corporate and commercial law practice. With changing economies, I gained experience in industries from fishing to electronic payments, from natural gas pipelines to wholesale foods and from aboriginal economic development to mining. One of the most pleasant things about the practise of business law is that it makes the lawyer learn the inside of different industries, respect the differences and learn from the themes that run through all business.

My business law experience has mainly been in the areas of pure corporate law, private mergers and acquisitions both in Canada and the U.S., general legal advice to boards of directors and management officers and the structuring of mining transactions on behalf of major mining companies investing in Canada, the U.S., Latin America and Europe. I also handle the personal legal affairs of a small number of private clients, the establishment and continued maintenance of family trusts, the establishment of not-for-profits societies and charitable societies and trusts.

Unlike most Canadian lawyers, I have experience in the area of aboriginal law acting for government, industry and aboriginal clients. I was researching and factum-writing for aboriginal rights cases going to the Supreme Court of Canada as early as 1977 and have since acted in respect of major projects involving aboriginal commercial enterprises and environmental review of large industrial developments on reserve lands as well as the commercialization of reserve lands. I have also worked on the design of models for

aboriginal economic development in the areas of business development and mortgage finance on reserve including setting up the business structure for a First Nation living under a new treaty. I have designed and implemented successful long-term vehicles to manage major “heritage” financial settlements involving aboriginal and non-aboriginal communities. I have advised major mining companies in respect of relations with aboriginal neighbours. I have designed a successful strategy for allocation of economic benefits among stakeholders in respect of a resource mega project and advised upon the negotiation and settlement of benefits agreements. I have long experience in aboriginal negotiation as well as a useful understanding of aboriginal politics. I also have experience in drafting comprehensive land use rules and regulations in respect of a modern treaty.

I am very interested in the development of aboriginal law based on the epoch-making inclusion of the recognition of aboriginal rights in section 35(1) of the *Constitution Act, 1982* and the resulting law relating to reconciliation, consultation and accommodation. My published work on the law of consultation and accommodation has been quoted with approval in the Supreme Court of Canada.

My experience in many industries has allowed me to craft unique solutions to complex governance and community relations problems. I have extensive experience dealing with the relationships between developers, non-governmental organizations and indigenous people. I have also created innovative business structures dealing with resource developers’ interaction with aboriginal and non-aboriginal communities.

Some representative transactions are:

- Restructuring and sale of a major B.C. fish processing company
- Purchase of the assets of a major B.C. aquaculture business
- Purchase of a U.S. software corporation
- Purchase of numerous U.S. electronic payment processors
- Sale of a national food processing business
- Sale of a regional credit reporting business
- Purchase of mining assets in Mexico and Chile
- Establishment of mining joint ventures in Canada, the U.S. and Europe
- Advising mining corporations in respect of community relations and social licence issues
- Establishing a unique aboriginal fishing corporation
- Advising upon the establishment of a liquefied natural gas facility on reserve lands

- Negotiating contractual arrangements between an aboriginal corporation and major pipeline developers
- Detailed legal review of the Draft Agreement in Principle of a Self-Government Agreement

My publications include:

- “Reconciliation in Canadian Law: The Three Faces of Reconciliation?”, Insight 5<sup>th</sup> Annual Western Canada Aboriginal Law Forum, 2009;
- “Reconciliation: A Partly Formed Legal Doctrine”, Insight 3<sup>rd</sup> Annual Western Canada Aboriginal Law Forum, 2007;
- “Judicial Deference and the Significance of the Supreme Court of Canada’s Decisions in Haida and Taku River,” *The Advocate*, July 2006, Vol 64 part 4 pg 487-501;
- *Canadian Aboriginal Law: Creating Certainty in Resource Development 3<sup>rd</sup> ed.*, Journal of Energy and Resources Law, Vol. 23, issue 4, November, 2005;
- *Canadian Aboriginal Law: Creating Certainty in Resource Development 2<sup>nd</sup> ed.*, University of New Brunswick Law Journal, Vol. 53, 2004;
- *The Crown’s Duty to Consult Aboriginal People*, Alberta Law Review, Vol. 41, No. 1, July 2003;
- Canadian Aboriginal Law - Creating Certainty in Resource Development 1<sup>st</sup> ed. presented to the Rocky Mountain Mineral Law Foundation - April 2003;
- Canadian Aboriginal Law in the Mining Journal 1<sup>st</sup> ed. - March, 2003;
- Placing Limits on the Crown’s Fiduciary Relationship with Aboriginal People: Wewaykum Indian Band v. Canada (Supreme Court of Canada) - February, 2003;
- British Columbia’s Amended Aboriginal Consultation Policy - December, 2002;
- Industry and the Crown’s Duty to Consult Aboriginal People: Additional Reasons by the B.C. Court of Appeal in Haida Nation v. B.C. (August 19, 2002) - September, 2002;
- Traditional Constitutional Analysis and Aboriginal Interests: Kitkatla Band v. B.C. (Min. of Small Business, Tourism and Culture) - June, 2002;
- The Crown’s Duty to Consult Aboriginal People presented to the Canadian Petroleum Law Foundation - June, 2002;
- Industry and the Crown’s Duty to Consult Aboriginal People: Haida Nation v. B.C. (B.C. Court of Appeal, February 27, 2002) - March, 2002; and

- Aboriginal Title and Mineral Development in Canada and Australia presented to the Rocky Mountain Mineral Law Foundation - July 2000.

Recent and Forthcoming Activities:

- Speaker, Lexpert Conference, Aboriginal Law: Emerging Issues and Risk Assessment in Project Development, November , 2008, Vancouver, Calgary and Toronto
- Speaker, Insight 5<sup>th</sup> Annual Western Canada Aboriginal Law Forum, May, 2009, Vancouver
- Speaker, Lexpert Conference, Aboriginal Law Update, October, 2009, Vancouver and Calgary
- Attendee, Federal Government Round Table on Managing Aboriginal Rights and Title in British Columbia, March 2010
- Speaker, Insight 6<sup>th</sup> Annual Western Canada Aboriginal Law Forum, May 2010, Vancouver
- Attendee, The Muttart Foundation Consultation on Non-Profit Organizations, May 2012, Banff.

I received my B.A. (Honours) from the University of Victoria (1969) and my Ph.D. in English legal and constitutional history from Cambridge University (1974). I completed two years of legal studies at Cambridge University (1975) and received my LLB from Dalhousie University (1976). I was called to the Ontario bar in 1978 and the British Columbia bar in 1981.

I appear in the *International Who's Who of Mining Lawyers* (London, UK) as one of the world's leading lawyers in the mining area and as a leading lawyer in the aboriginal law area in *Canadian Legal Lexpert Directory 2012*.

I am the former Chairman of both Committee 3 (Indigenous Peoples and Development) of the International Bar Association and the former Chairman of the Business Law Section of the British Columbia Branch of the Canadian Bar Association. I am the President of the Vancouver Oxford & Cambridge Society, a member of the board of directors of Early Music Vancouver, a member of the Vancouver Croquet Club and am currently working on a book about the Canadian Law of Reconciliation.