

Toby Kruger

Partner, Yellowknife

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Toby advises private and public sector clients on litigation and regulatory matters. He provides advice on energy, mining, land, environmental, public utility and Indigenous law issues. Based in Yellowknife, Toby advises clients throughout western Canada and the North. Toby also provides strategic advice to government and private sector proponents on projects, including environmental assessment, consultation with Indigenous peoples, and regulatory planning matters.

Toby also appears before courts, tribunals and arbitration panels to assist his clients in government and the electricity, mining and oil & gas industries in administrative hearings, judicial review, trial, appellate and arbitration proceedings. He has appeared as counsel before various administrative tribunals, superior courts, appellate courts, and the Supreme Court of Canada.

Prior to joining Lawson Lundell LLP, Toby clerked at the British Columbia Supreme Court. Toby practiced in the Vancouver office of Lawson Lundell before moving to Yellowknife in 2014. Toby is also a regular contributor to the Project Law Blog, a resource that provides updates on developments in law and policy relating to the development of major projects in Canada.

Professional Activities

- Supreme Court of the Northwest Territories Rules Committee
- Northwest Territories and Nunavut Chamber of Mines, Board Member
- Canadian Bar Association of Northwest Territories, member of Environmental, Energy and Resources law and Aboriginal law subsections
- Appointed as NWT Representative to roster of dispute resolution panelists under the Canada Free Trade Agreement.
- Law Society of Northwest Territories Admissions Committee

Rankings & Recognitions

- *Chambers Canada 2021*: recognized for General Business Law - Northern Canada and Arctic (Band 3)
- *Benchmark Litigation Canada Awards 2020*: Impact Case Award for *TransAlta Generation Partnership v Balancing Pool*



Bar Admissions

Yukon (2019)

Alberta (2015)

Northwest Territories (2014)

Nunavut (2014)

British Columbia (2011; non-practicing as of 2019)

Education

University of British Columbia (B.Sc. (Honours), 2004)

University of New Brunswick (LL.B., (with distinction) 2009)

Practices & Industries

Energy

Environmental & Regulatory

Indigenous Law

Litigation & Dispute Resolution

Mining

Northern Group

Experience

Toby's recent representative experience includes:

- Represented the Canadian Association of Petroleum Producers in the Supreme Court of Canada, where the Province of British Columbia sought an opinion on the constitutionality of a scheme that require provincial permits for the possession of additional volumes of “heavy oil” in the Province ([Reference re Environmental Management Act](#), 2020 SCC 1).
- Successfully representing a major utility in a \$60M arbitration claim against a statutory body regarding payments for retiring coal-fired electricity generating units in Alberta (Confidential client).
- Represented the Canadian Association of Petroleum Producers in the Supreme Court of Canada in *Redwater*, a major case dealing with the intersection of bankruptcy and environmental law in the oil and gas context ([Orphan Well Association v. Grant Thornton Ltd.](#), 2019 SCC 5).
- Defended a major commercial landlord in a lease dispute that threatened to derail a significant transaction that was scheduled to close shortly. Successfully dismissed the claim after trial within only 5 weeks of being served ([Waters et. al. v. NPR](#), 2017 NUCJ 12, affirmed [2018 NUCA 1](#)).
- Successfully defended the Canada Energy Regulator (formerly National Energy Board) at the Alberta Court of Appeal in a case brought by Geophysical Services Incorporated alleging the NEB's disclosure to the public of seismic data collected in Canada's north and offshore was a violation of the Copyright Act. The Court unanimously agreed with the NEB's position. ([Geophysical Service Incorporated v EnCana Corporation](#), 2017 ABCA 125, leave to appeal to Supreme Court of Canada denied).
- Successfully represented owner of a mine in defending a high profile appeal to the Development Appeal Board regarding closure and reclamation work to be done at a former mine site (Unreported, 2016, Yellowknife Development Appeal Board)
- Represented BC Hydro in the successful defence of a proposed class action concerning the alleged impacts of exposure to emissions generated from smart meters on BC Hydro's 1.9 million residential and commercial customers ([Davis v. British Columbia Hydro and Power Authority](#), 2016 BCSC 1287)
- Successfully brought an injunction on behalf of an employer to restrain a former employee from breaching non-solicit and non-competition obligations in an employment agreement, *KBL Environmental Ltd. v. Ehizojie* (Unreported, 2016, Alberta Court of Queen's Bench)
- Co-counsel to Chevron Canada Limited (a refinery operator) and Chevron Canada Resources (a producer and pipeline shipper) in a pipeline transaction tariff hearing before the Canada Energy Regulator (formerly National Energy Board) regarding allocation of pipeline capacity on the TransMountain Pipeline. *Application for approval of Tariff Amendments regarding Verification Procedures*, [RWH-001-2013](#).
- Successfully defended an application brought by a former spouse against a pension administrator for an interest in the former spouse's pension plan ([Fricker v. British Columbia Pension Corporation](#), 2014 BCSC 1729)