

Stephen English KC

Selected Experience: Commercial Cases

- Acted as Defence and Appellate Counsel in a case involving allegations of fraudulent misrepresentation of business value by a husband in matrimonial settlement. Trial judge found fraud and awarded judgment totaling \$17m. and court costs exceeding \$6m. Appealed judgment and costs award to the Court of Appeal where a supportive dissenting decision paved the way for an appeal to the SCC. Settled case prior to SCC hearing.
- Represented a financial institution defrauded by one of its joint venture partners. Investigated and located defendant's real estate assets, and filed claims against them based on trust laws. After examination for discovery, obtained settlement for full claim and all legal costs.
- Coordinated the assembly of evidence and otherwise assisted the RCMP fraud squad in its commercial crime investigation on same incident. Evidence led to fraud and breach of trust charges, ultimately resulting in a 2-year prison sentence for the fraudulent defendant.
- Sued a national franchisor on behalf of a group of franchisees, for negligent misrepresentation and breach of franchise agreement. Successful resolution of claim allowed clients to continue in business independently of franchisor.
- Defended a western Canadian franchisor sued by franchisees for 10 years of allegedly fraudulent overcharging. Case extended 8 years and involved production of over 18,000 individual documents. Eliminated part of claim by developing strategy of purchasing operations of the lead plaintiff franchisee, thereby furthering franchisor's goal of expanding its corporate owned operations. After extensive examinations for discovery, settled balance of claim on nuisance basis.
- On behalf of Swiss investor, investigated and sued investor's Alberta business partner for breach of trust, fraud, and theft. Obtained full recovery by way of settlement agreement.
- Sued a Texas Corporation in Alberta for breach of contract and breach of duty of good faith. Obtained order for prejudgment asset seizure. Successfully settled claim prior to examination for discovery.
- Defended a group of joint venture investors against a claim brought by joint venture trustee, and filed counterclaim for fraud, fraudulent misrepresentation and breach of fiduciary duty. Joint venture trustee did not pursue claim in the face of the counterclaim. Result was dismissal of claim against clients.
- Acted as appellate counsel in precedent setting breach of fiduciary duty case involving \$1.4 million award against employees found to have breached their fiduciary duties and to have stolen confidential information from former employer.
- Investigated facts surrounding stock promotion scheme in which positions of investor clients were diluted by over 50%. Sued the stock promoter, a public corporation and its directors for fraud and breach of directors' duties. After extensive investigation and examinations for discovery, recovered a settlement that involved transfer of a control block of shares to clients and recovery of full solicitor-client fees totaling \$275,000.
- Represented one of the founders of a public corporation in a claim against a co-founder based on fraud, breach of trust, breach of fiduciary duty and theft of securities. Obtained a Pre-Trial Preservation Order preventing Defendant from dealing with shares claimed by our client. Achieved settlement based upon transfer of control block of shares to client.
- Defended a corporation and its principals in an action by former employer for alleged breach of fiduciary duty and misuse of confidential information. Case involved a claim for an injunction, damages of over \$1 million, and production of over 8,000 documents. Successfully defeated an injunction application designed to prevent clients from competing with former employer. Aggressive defence resulted in Plaintiff discontinuing claim before trial.
- Sued a subsidiary of a Fortune 500 company and its president for abuse of process, wrongful interference with economic relations, fraud and injurious falsehood as a result of their attempts to prevent client's \$8m development project from proceeding. Lawsuit resulted in a favourable settlement for client, allowing successful completion of project and preventing further harmful activities by defendant.
- Defended a Vendor of gas station site against claims of fraud and misrepresentation in relation to hydrocarbon contamination discovered some 15 years after he ceased fueling operations on site. Successfully obtained a Summary Dismissal Judgment and recovered full solicitor-client costs from the Plaintiff.
- Sued a General Partner on behalf of Limited Partners claiming fraud and breach of trust in connection with GP's refusal to distribute profits to clients. Obtained a Court Appointed Monitor to oversee the operations of the partnership which led to distribution of contested funds to clients. Obtained an Order directing sale of the partnership business leading to successful recovery of clients' interest in the partnership.
- Sued the CEO and shareholder of a corporation alleging fraud, misrepresentation, and embezzlement of corporate funds. Successfully ousted the CEO and acquired 100% ownership in corporation by way of a Court Ordered Buy-Sell process. Persuaded the Court to include non-compete and confidentiality provisions in the Sale Order which prevented harmful competition by the defendant after the sale. Settled claim of fraud and embezzlement on the eve of trial on terms favourable to client.
- In an action for fraud in a commercial transaction, recovered trial judgment in excess of \$1.6 million, including \$865,000 punitive damages, plus full indemnity costs. Extensive cross examination of the defendant and his solicitor led the court to conclude that the defendant was lying and that his solicitor fabricated evidence and gave false testimony to assist the defendant. A retrial reduced the damage award but maintained original findings of fraudulent conduct.